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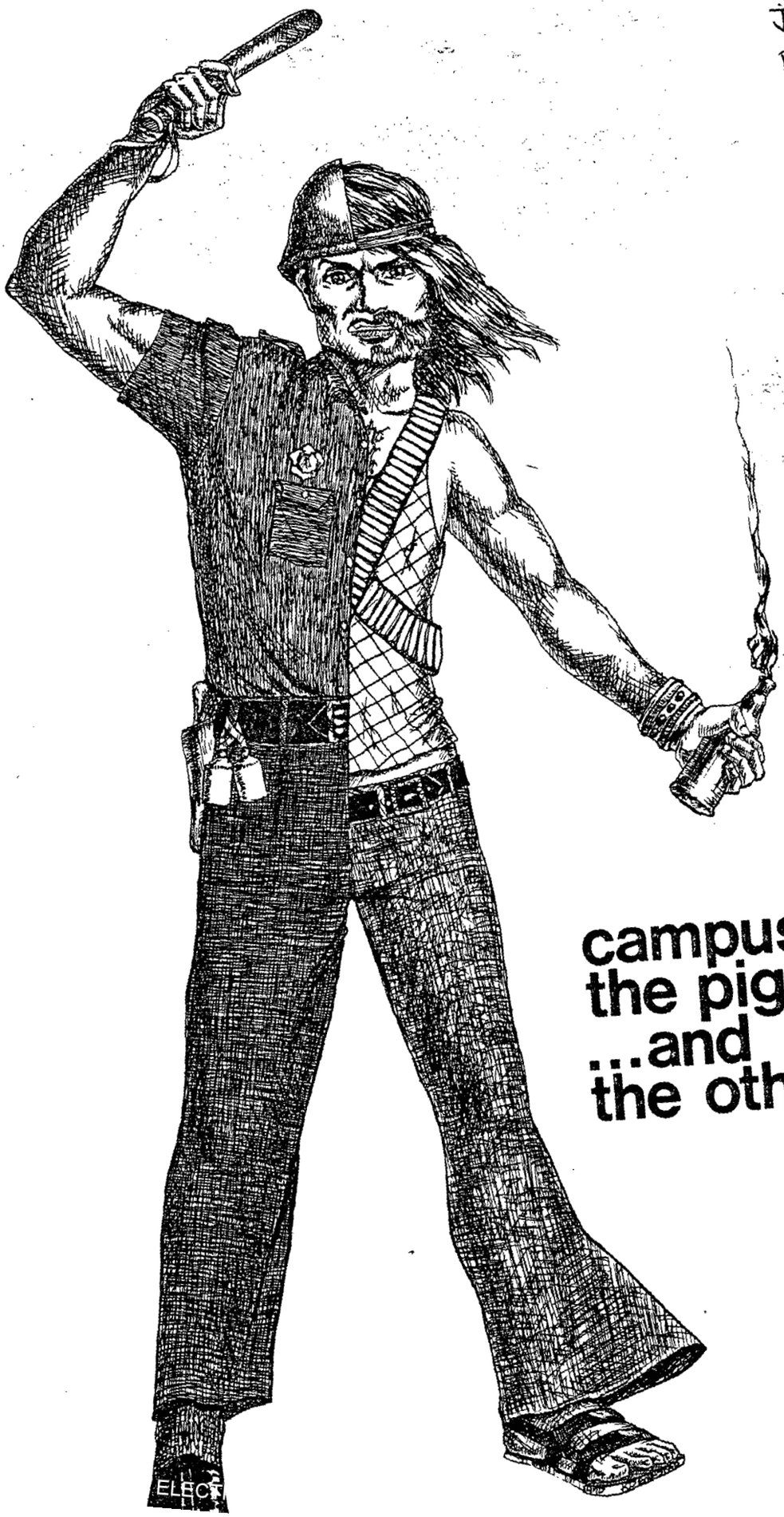

campus riots: the pigs ...and the other pigs

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contents

Animal Farm 1970 6
Lanny Friedlander

Where Have All the Children Gone? 4
Lanny Friedlander

Comments on the Proprietary Status of Data 9
Skye D'Areous

Critique: contemporary concept of visual space and the visual-physical dichotomies 20
Richard Perkins

Neither Sleet, nor . . . (forget it) 12
Dr. D. T. Armentano

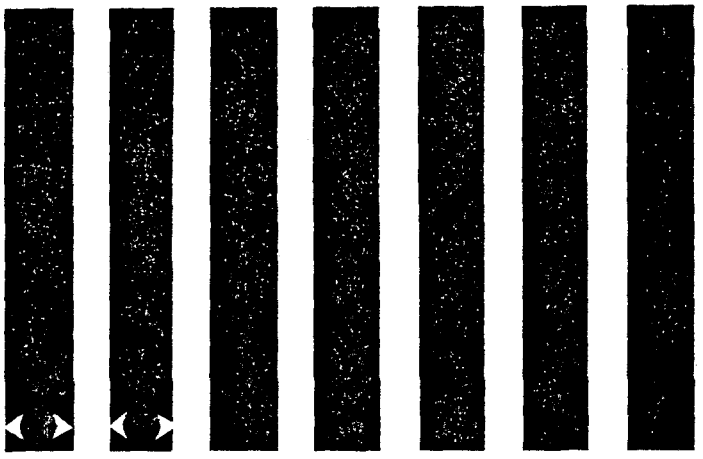
Obscenity and the Law 18
Tibor Machan

A Call for Papers 17

Letters to the Editor 25

editorial

Where have all the children



gone?

I drive a delivery van for a living. There is something saddening these spring mornings about cruising through the back streets of Boston and Cambridge. As my truck swishes past the three-story woodframes and the apartment buildings and the housing projects, I catch glimpses of the little animals that have found a niche in the backyards of Boston: birds and squirrels and dogs and cats. Yet on all but two days of the week, something, someone, is missing.

Missing are the little yells, bouncing down the alleyways, drifting lazily on a soft breeze, arriving muted, tempered, by distance, and crosswind, and the rustle of new born leaves. Lacking are the bright, fascinated pairs of eyes that stare unblinking from porchstep and curbstone as my big blue truck rolls noiselessly past.

A four year old sits listless, lonely on his tricycle. No one to push. His older sister goes away every day, all day. Elsewhere, teenage boys sit in their cars, lined up in a row by an old brick building, their radios blaring, their engines idling, their minds stalled, awaiting the 3:30 bell that releases from captivity their younger friends. The neighborhood dogs run in groups, playing with each other; their children spend the day away. Late in the afternoon, the loyal slip away from the pack to meet their children at the school yard. Sometimes there is detention, and the disappointed dog must wait.

Swish, swish, swish: the soft sound of my vehicle's passage is reflected intermittently by the newly-washed bodies of the cars that line the curbs of the narrow streets I roll down. The wind blows freshly through the open

windows of the cab. The sun makes the dingy gray houses look quietly happy. It is a perfect day.

Perfect for hopscotch, or street ball, or rollerskating, or exploring a musky garage, or fixing a flat tire, or tuning an old car, or reading a book on the front porch until the kids stop by to ask you to play football. A perfect day for all of it, for anything in the world, yet the streets are . . . empty.

Where have all the children gone? Saturday they were here. Where are they now? Who has taken them away from this joy? Who would destroy this perfect day, ***their*** day? And why?

You know the answer. You served your time, and now ***your*** children are serving theirs, a twelve year stretch in the prison system euphemistically referred to as free education. For six hours a day, five days a week, nearly all of America's youth are forced to remain in ugly old (or new) buildings, where they must perform inane tasks that destroy their capacity for pride, joy, ingenuity, integrity, and rational thought. For most of six hours they are required to sit motionless and silent in tiny pieces of furniture called "desks." They have to listen and remember in at least some detail whatever they are told to by the prison's caretakers (referred to as "teachers"), five or so of whom they meet with in the course of a day, one at a time for about an hour at a time in communal cells ("classrooms") where thirty or so of the prisoners sit at their "desks," which are arranged in rows to face the "teacher," who does a lot of things well described in three books by John Holt, a Boston-based teacher who'd like to see the keys thrown away — after the prisoners were set free.

If what is happening to American children in the public (and private) educational system is terrifying, then the thought of that happening to our own children should be even more horrifying, for they are our children, ***our*** joy, ***our*** responsibility, the object of ***our*** love. We all know how bad — in both form and content — our government-run schools are. Why, then, do so many knowledgeable parents allow their children to be subjected to that rot, allow then daily to be kidnapped and tutored into insanity?

Could it be the laws? Is it the laws that stop parents? But laws are only laws; there are ways around them, if one gives the matter the thought it deserves. I've heard of several people who have managed to raise their own children despite the legal proscriptions.

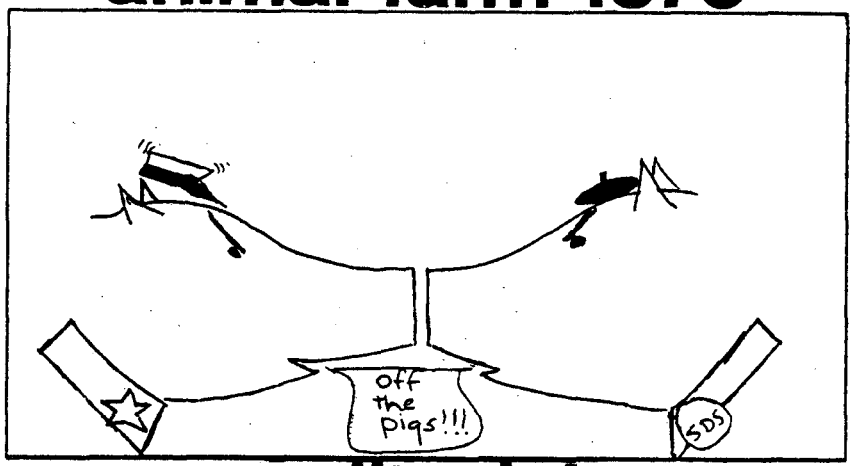
Could it be money? But there are ways to get one's tax money back (never mind vouchers) and in any event those who have children were not unaware of taxation when they conceived them. Taxation is a fact of life and those who would ignore it operate on much the same psychological premise as does many a New-Leftist, who blames his unhappiness on the anti-life, anti-joy nature of the regime. Well, it's possible to be at least partially happy in any society if one is willing to work for it. Similarly, the state's fiscal irresponsibility does not excuse one's own monetary mismanagement. Both taxation and the various regulations against personal child-raising must be viewed, not as excuses for inadquacy, but as real, unavoidable costs of child care, costs which must be paid, if not by you, then, without choice, by your children.

Is it lack of time? But have you ever thought about pooling efforts with other couples in your city? Most large towns contain enough enlightened parents to make effective a division of labor. The best qualified of the commune could be hired by the other members as teachers. I've heard that something of this sort is planned in San Francisco. (Could someone fill me in?) Alternately, one might make use of the already existing Montessori schools; they offer distinct advantage over the stagnant socialized system.

Whatever reason a parent might have for leaving his children in the care of the state, it will not diminish their intellectual death, nor mitigate their emotional torture. If you wish to see your children happy, you must do the necessary things. There ain't no such thing as a free lunch. Somehow, parents must plan their children's rescue from the monster. (How, we'll talk about in future issues; any ideas?) It's too bad we can't liberate all the tots (America's youngest political prisoners), but social change just does doesn't work that way. Chip loose your own youngsters and you'll have done probably as much as could be expected.

Perhaps someday there will be someone there to push the tricyclist, hug the dog, and follow with incredibly wide eyes my truck as it rolls silently past in the spring morning. ■

animal farm 1970



editorial

We are trapped in the middle of a street war between two breeds of pigs, the police and the New Left. In Berkeley, Cambridge, Madison, Isla Vista, the battles flare. It goes something like this. Student leftists gather; windows are broken; trash fires are started; squad cars of police arrive; they eye the crowds; they begin to clear the street; the fires are put out; the crowd regroups; the police are stoned; more police arrive, perhaps several hundred, in riot gear; they charge the crowd; several bloody scuffles break out between police and rioters; as the crowd retreats they smash more windows; gasoline fires are set in two banks; looting begins; some students follow the retreating rioters, putting out the fires; one of these students is shot by a policeman, others are gassed indescriminately as police heave canisters off roaming troop trucks; two squad cars are overturned and burned.

Such is a typical scenario of student/police riots in America: animal farm 1970. In George Orwell's Animal Farm, you'll recall, the animals who lusted after power over the other animals were the pigs. In the increasingly common confrontations as described above, who are the pigs, the police, as the New Left claims, or the New Left, as the cops claim? Most social commentators talk as if a sane man's only choice was to side with either the police or the "dissenters." This is not the case. It is not a matter of choosing the "correct" side, but of determining if ***either*** side ***is*** correct. In fact, neither side is correct.

It is not a matter of the pigs against the kids (Ramparts magazine version), nor of the police against the pigs (police version), but of the pigs against the pigs. Both the left and police either initiate or threaten to initiate physical force, the essence of power.

In his impassioned pleas for revolution, Karl Hess offers us this principle: if it oinks, it's your enemy. But when all oink, when from both sides of flaming barricades come shouts of powers, who is your friend? The sane man's answer is: no one; his course of action: an independent one, unstained by the mud of the sty.

We are witnessing the first phases of a war that will in all probability end in totalitarian enslavement of the American people. The public should not be fooled into thinking that it is a battle of right against wrong.

A struggle to achieve justice it decidedly is not. Instead it is a struggle of evil against evil, for control of the apparatus of power, the state. Part of the purpose of the participants is the establishment of totalitarianism, part, its control. It may be that most of those doing combat in the streets do not realize that dictatorship must be the logical result of their actions (although this is hard to believe), but dictatorship will be the result nonetheless. Z will come to America.

Doesn't anyone see? The street fighting and attendent legal action is all a replay of an age-old game of decoys probably devised by the very first pigs, to whom it occured that one of the best ways to get a freedom-loving people to accept increasing displays of organized power would be to convince them they face imminent death and destruction at the hands of a foreign or domestic enemy, against whom the people must do battle if they hope to survive. Never mind what civil liberties slip by the wayside during the war. (That is the whole point: while the people do battle against the supposed enemy, behind their backs, their real enemy forges chains and his schemes to use them.) So the totalitarian draft is justified; it is needed to defend America from impending invasion from the Vietcong.

So too on the domestic scene. Both revolutionary left and counter-revolutionary police play for the sympathy and support of various segments of the populace, pointing to the coercive nature of the other as justification for their own acts of coercion. The logical result of this is a sharply escalating level of hostilities, a kind of ping pong effect.

The New Left points to the draft and the Vietnamese (Cambodian? Laoian?) war as a justification for their seizure of university property. If campus officials are incautious enough to call in the police to clear demonstrators, the cops often (not always) use the bust as a handy excuse to beat heads —or worse. Whereupon, the students, to protest the bloody bust, initiate a downtown rally just ***designed*** to provoke the cops. Maybe a few bricks have to be tossed, a few cars burned, but somehow the "radicals" (the pigs in bell bottoms) manage. Not that it takes much to egg on some cops to beat the hell out of a college age, long haired, blue jean clad SDS hippy type. Hardly.

The police point to broken windows and overturned autos and proceed to roll up the town with riot guns and tear gas bombs. (They call this a curfew.) The New Left points to the constant harrassment the far left suffers at the hands of the cops (including, they claim, an organized attempt to snuff out the Black Panthers) as defense for acts as insane and violent as skyscraper bombings and police murders. Such swinishness sets off a predictable chorus of oinks from capital hill and precinct-house type pigs: "Rap Brown" (antiriot) laws (and the likes) and Panther killings.

After a certain point (a point, sadly, long ago reached), neither side bothers with specific charges, engages instead in kind of a indescriminate genocide. "Off the pigs," urges subway graffiti. "America — love it or leave it," ominously advises the bumper sticker on a policeman's shiny Chevy.

How will it all end? In coming months and years, the state will use the left's militancy (and the rising "non-political" crime rate, of course) in its bid for complete power. To this end, increased police power is already being talked about or initiated.

No-knock, wiretapping, indoctrination of children (see recent report to Nixon), concentration camps (during Berkeley riots, temporary use of an army camp for detention purposes was reported), censorship and executions are all already either reality or distinct possibility. We can expect in response a widening circle of terrorism and "public" and "private" sabotage that will make the economic/technological collapse depicted in ***Atlas Shrugged*** seem rather calm and slow.

Such sabotage, coupled with establishment repression and a host of troubles predicted by futurists, will create a nation few of us will be willing — or able — to live in. It is critical, then, that strife in the streets be terminated — fast. Shortly it will be too late. The pigs have virtually full control of the streets today and, unless Americans do some quick — and careful — thinking now, within a few years, the swine (whichever group) will have total control.

The most important discovery we can make is our enemy's precise identity — and what it is that makes him our enemy. If we recognize that it is not the New Left militants alone, nor the

police alone, but both, we will have come a great distance towards saving the country.

The basis of a sane, stable, free society is voluntary association and mutual respect for individual rights. Neither the police nor the New Left speak or act as if they comprehend this — or care.

For example, the left's opposition to the draft is (generally) one based upon opposition to the war, not upon man's inalienable right to control his own life (war or no war). Conversely, any cop will tell you that laws must be enforced if chaos is not to reign. The function of police, then, is to establish and maintain a condition the police call "order" (non-chaos). No reference to rights. Just "order." (Incidently, a man who turned out to be an ex-narc struck up a conversation with me on the subway a few nights ago and I was utterly amazed how precisely his personality and ethical views conformed to the mental picture I had previously constructed of the mixed economy, socialized cop. How revealing his facial expressions when I used the term "individual rights!")

If members of neither group speak as though the concept of rights was valid, they certainly don't act as though it was. The massive trampling voluntarism receives at the hands of both is legendary in the journals of the libertarians.

Neither group can be absolved from guilt for the street fighting, yet neither group is completely without justification. The left has no right to block the (government owned) streets, yet the police have no right to maintain state possession either. Public property has no valid claim to existence; it always represents either stolen goods or the product of theft (by taxation or expropriation). Those who defend the prerogative of the police to control the streets would appear to be defending the right of thieves to determine what they'll do with their stolen goods, a oddly non-libertarian position.

Some supposedly libertarian observers, such as Jeffery St. John, seem to view the police as morally neutral despite their voluntary enforcement of coercive laws, an attitude terrifyingly reminiscent of many Nazi Germans' ("They were only following orders . . .").

But in fact, because cops are cops ***by choice*** and are not forced into the profession, they cannot possibly be morally innocent of their own actions. Pigs is pigs. "***Someone,*** though, has to enforce the laws," replies our "conservative" (who apparently desires to defend the pigs' inalienable right to be pigs). Perhaps. But not ***all*** the laws, certainly not those that violate the rights of man. Why should the "conservative" want ***those*** laws enforced . . . . unless he was on a power trip?

The central role police play in maintaining the (political) stability of the welfare state (which the "conservative" despises so loudly) should not be overlooked. If any significant portion of the cops made a well organized, publicized refusal to enforce some repressive statute of cultural importance (say narcotics), that law, I'm certain, wouldn't stand very long.

In ***Countdown to Chaos,*** Jeffery St. John's book describing the Chicago riots, absolutely no mention is made of the critical consideration that most of the strife occured either on government-owned streets or parks. The tumult, then, represented not simply a "challenge to authority" (police version), nor "organized repression" (revolutionists' version), but a very real conflict in, as Tibor Machan has put it, "spheres of influence," in which both contestants were, due to the conflict's nature, at the same time right — and wrong.

Because "public property" is obtained through those peculiar forms of theft known as taxation and eminent domain, actual ownership is extraordinarily difficult, if not impossible, to determine. Legitimate usage, then, is equally difficult to stipulate. Any guidelines set for usage must be arbitrary and violative of the rights of the actual owners (the indians?). In short, the streets may not belong to the people, but they sure don't belong to the cops either.

The shallow rhetoric of ***Countdown,*** however, has no room for finely tuned reasoning or precisely ascertained blame. Accordingly, apparently the police should be free to decide how and by whom streets and parks will be used. In other words, the thieves should determine who gets to help loot the property they have stolen.

Even if the police have no moral right to prevent the New Left from peaceful congregation on public lands, the New Left can not be condoned for its impromptu parades, parties, and rallies, which are clearly devised not as proper challenges to the concept of public property and the power of the state, but essentially as nihilistic acts of disruption ("we tied up traffic for hours . . ."). and, I believe, expressions of their desire to rule — or be ruled. Getting beaten up in the streets by the police will not liberate those streets; quite the opposite: it will only allow the state's menials to exert even greater control. Those who applaud the Weatherman as America's first line defense against the Michells and Agnews of the world should know better (and probably do). I can't think of anything the state likes better than a good riot (except maybe a good war). Martial law, curfews, riot police, state troopers, National Guard, anti-personnel weapons, tear gas, megaphones, neat-looking uniforms, emergency strategy sessions, acts of Congress — man, what a power trip! (As much fun as taking over a university, I'll bet!)

Nothing is more ill-suited for smashing the state than a riot. The state ***co-opts*** riots; they are its ***rationale.*** (Order, order, order, remember?) Faster than almost anything else, they step up the timetable for totalitarianism. The state thrives on emergency (see Piekoff), and what more than riot creates a condition and atmosphere of total chaos and, thereby, cultural acceptance of the inevitability of and need for a strong man?

As sad as it may seem, there are simply no heroes in the war for the streets. "Kill a commie for Christ," cries one side (and four at Kent State die). "Off a fascist pig for Marx," cries the other (and black snipers in Cleveland down four cops). Kill, kill, kill.

And kill they will, themselves and us, unless libertarians and the general public devise some means to de-escalate the battle. It will be no simple job. For starters, the "justifications," to the extent they are real injustices, must be removed. The Vietnam war must be ended, the draft abolished, drug laws repealed, the police collared, (or converted) and a host of reforms initiated. On the other side, some way must be found to morally disarm the violent of the left and win over the non-violent.

I invite suggestions. ■

comments on the proprietary status of data

Skye D'Aureous

Data is at the root of the value of any economic good. Without data, nothing would be valued because there could be no expectation of satisfaction. Without data, it is quite clear that nothing could be produced. In fact, the value of most economic goods lies predominantly in the data – the organization – incorporated in them. The disassociated components of an automobile or a telephone would be almost valueless if it were not for the data which directs the assembly of the parts into a device capable of providing satisfaction for a person who has the data which enables him to operate these mechanisms. In the absence of assembly data, what little value the heap of parts has is almost entirely due to data which guides the conversion of scrap into some other object of direct or indirect satisfaction. The rapid expansion of the stock of data is the predominant factor in the rapid increase (in spite of the statists) of our material well-being; investment at the same rate in old methods – old data – would have yielded far less satisfaction. With data of such primary importance, it is disheartening to see so much confusion, acceptance of old statist procedures and fallacies, and so little concerted thinking among most libertarians on the proprietary status of data.

Let us examine the widely held concept that the first innovator to get to the State Patent & Copyright Office is entitled to the exclusive use of the idea for a period of N years whereupon anyone is entitled to use the idea without contract or royalty in any manner that they can. This position is held by many statists and is expressed in Rand's Objectivist position on patents and copyrights as stated in "The Objectivist Newsletter," Vol. 3, No. 5, May 1964. It will be demonstrated that this position is completely fallacious.

Consider a solar system in which there are two planets, Alpha and Beta, inhabited by intelligent life. Some of the inhabitants of Alpha undertake to commercially exploit space, and in due time send a ship to Beta. When they arrive on Beta they discover the Betans using lasers, devices on which an Alpha holds an active patent. Since this is the first contact between the planets, it is unquestionable that a Betan independently invented the laser. The injustice of the Alphans forcibly demanding unearned royalty payments from Betan laser manufacturers is apparent. The statist may say that all lasers produced on Alpha must be manufactured under the Alphan patent, and similarly all lasers produced on Beta must be manufactured under the Betan patent. What of a laser produced on Beta and exported to Alpha? The Alphan patent holder would clearly be extorting unearned values if he were to forcibly demand royalties from the producers, purveyors, or purchasers of Betan lasers. To prohibit such imports would be to interfere with someone else's disposition of his own property. If the Alphan patent holder were to purchase land on Beta and set up a laser factory of his own design, the Betan patent holder would clearly be extorting unearned values if he were to forcibly demand royalties from the Alphan. If he were to demand that the Alphan factory be closed and imports halted, he would not only be disposing of the data and material resources of another, the Alphan, he would be interfering with the right of other Betans to dispose of their own resources.

Some might state that all lasers used on Beta must be under Betan royalty and all lasers used on Alpha must be under Alphan royalty. By what moral right does a Betan bureaucrat warn an Alphan land owner on Beta that he cannot use his own laser – perhaps purchased before the advent of interplanetary travel – on his own land? The Alphan laser and laser owner are moral in space 1000 kilometers off of Beta. By what magic does the laser and laser owner become coercive, unjust, and immoral when they come close enough to Beta so that the atmospheric density is 10^{10}molecules/cc? Or is it 10^{12}molecules/cc? 10^{15}cc?? $10^{17.69}$? Or does it become immoral when the soles of the Alphan's boots touch the first particle of Betan soil? For the Betan to forcible demand a royalty from the Alphan is for him to coercively extract an unearned value. Morality cannot rationally be conditional on position except insofar as it is a matter of the ownership of the position.

The statist now says, "All lasers on Betan owned land must be under Betan patent, etc." An Alphan with an Alphan laser leaves his ranch on Beta and goes to his nest door Betan neighbor to purchase a truck load of grulix for his phluxers. The Betan neighbor is eager to sell the grulix and has no objection to the Alphan or his Alphan laser. A Betan bureaucrat comes along with a copter load of fuzz and says, "Surrender your laser or pay Betan royalties on it or we'll kill you." Again, this is clearly coercion; the Betan patent holder hasn't done a damn thing for the Alphan, and hence the Alphan doesn't owe him a plugged blick.

The statist tries again, "All Betans must use Betan lasers, etc." This is gross racist idiocy; what difference does it make whether the person's skin in blue or mottled yellow and green, whether the chromosome count is 57 or 25?

The only matter of rational import is that the person whose idea was used is paid. Independent creation is the basis of independent ownership, whether the creation is data or berry-picking sticks.

These moral considerations are not limited to cases of differing species, differing planets and emerging space flight. The conditions of this example simply made clear that the two inventors were indeed independent. The establishment of various innovators' claims to independency is a technological problem. It cannot be solved by coercively precluding all innovators from the market save the one who got to the State Patent under the rug -- and it does so at an enormous expense to justice in the most important area of property – data.

Ayn Rand states in the May 1969 "Objectivist Newsletter:"
"As an objection to the patent laws, some people cite the fact that two inventors may work independently for years on the same invention, but one will beat the other to the patent office by an hour or a day and will acquire an exclusive monopoly, while the loser's work will then be totally wasted. This type of objection is based on the error of equating the potential with the actual. The fact that a man ***might*** have been first, does not alter the fact that he ***wasn't***. Since the issue is one of commercial rights, the loser in a case of that kind has to accept the fact that in seeking the trade with others he must fact the possibility of a competitor winning the race, which is true of all types of competition."

This type of reasoning is based on the error of equating market competition with a foot race wherein an individual or organization passes out prizes that are theirs to give to those that they judge worthy by their own standards. The right of an innovator to attempt to sell his creation in a free market is not a prize that a fascists bureaucrat has a right to dispense. A man has a right to market his creations by the fact that he has created them -- not because he is granted this permission by some official. Both Bell and Gray independently invented telephone systems. It was for the free market to choose; no bureaucrat had a right to threaten Gray, to coerce him not to exploit the product of his mind, to call in a squad of hired murderers if Gray was not cowed. Bell's publication was minutely earlier – and it was the free market which should have determined whether he was to reap all, some, or none of the rewards because of this. It was fascist intervention in the free market which in fact gave Bell a coercive monopoly and stole from Gray any possible market reward for his property. Independent creation of an economic good of any sort is sufficient condition for original ownership. No bureaucrat may morally use coercion to restructure the free market along the lines of a dog race with himself as the track operator. The production of data follows the laws of human action just as does the production of material goods. Systematic, especially institutionalized, refusal to recognize the producer of a value as its original owner has inevitable deliterious consequences, whatever the nature of that value.

Having disposed of the concept that the first innovator to get to the office gets a monopoly, we now turn to an examination of the period during which data may be owned. Ayn Rand's May 1964 article states a conventional position:

"In the case of copyrights, the most rational solution is Great Britain's Copyright Act of 1911, which extablished the copyright of books, paintings, movies, etc. for the lifetime of the author and fifty years thereafter.

"In the case of patents, the issue is much more complex. A patented invention often tends to hamper or restrict further research and development in a given area of science. Many patents cover overlapping areas. The difficulty lies in defining the inventor's specific rights without including more than he can properly claim, in the form of indirect consequences or yet-undiscovered implications. A lifetime patent could become an unjustifiable barrier to the development of knowledge beyond the inventor's potential power or actual achievement. The legal problem is to set a time limit which would secure for the inventor the fullest possible benefit of his invention without infringing the right of others to pursue independent research. As in many other legal issues, that time limit has to be determined by the principle of defining and protecting all the individual rights involved."

When such a time limit is statutorially set, it cannot fully protect the rights of all individuals; rather it is ***trading off*** rights without the permission of those whose rights are being swapped. "Ah," spake the bureaucrat, "If we set the limit at 1 year the innovator loses too many of his rights, if we set the limit at 50 years, other innovators will lose their rights to compete and the system of production will stagnate under the dead hand of the old monopolies which we have granted. Therefore, we will determine some intermediate period of N years where we have carefully compromised and traded off rights so that the unearned values that the innovator extracts with his coercive monopoly before N years is balanced off by the unearned values that others seize after N years. We will examine the economics of some average innovations and thereby determine N."

Too bad we don't have such forthright, honest bureaucrats. This approach is worse than unbelievably complex – the most revolutionary and valuable innovations usually do not have a time course resembling that of an "average" innovation, and, moreover, frequently will not be immediately recognizable as such – it is simply an elaborate attempt to equalize the injustice, the equalizing principle being based on some "average" case. At one moment a man owns property and has a right to compensation for its use, a fraction of a second later by the preordained edict of a bureaucrat he has no further property rights. Such an N year period is obviously unfair to some of the people some of the time, and reflection on the market distortions that this edict will cause will readily show this intervention to be unfair to all of the people all of the time. The production of all economic goods, including data, follows the laws of human action. A State imposed limitation on the ownership period of any economic good will result in market distortions. Consider the result of an edict stating that a building could be rented for only 17 years after its construction, and that thereafter anyone could use it without payment to the "ex" owner.

What of a unlimited ownership period for data as is accepted for other durable economic goods: diamonds, land, trademarks, etc.? Will this not bring the wheels of progress to a sluggish whimpering halt in a morass of insanely greedy heirs of long dead data producers? Certainly not! This is a competitive dynamic contractual free

market system — it should not be confused with the truly dead hand of coercive State monopolies as they now exist! Independent production of an economic good results in independent ownership; if an innovator or his heirs price the use of an idea too high it will be profitable for someone else to independently solve the problem, perhaps in a very similar manner, perhaps in an entirely different way . . . and competition between data producers unhindered by coercive State monopolies will bring the price down. Data is an economic good. Its production, transfer, utilization, etc., obey the same laws of human action as other economic goods. Its cost of production can vary from negligible to immense; this can also be said of a gem. The cost of reproduction is frequently low, and has no bearing on the price versus demand curve it will bring on the free market; many goods have a low reproduction cost and in no case is the cost of production of a good the determinant of its price versus demand schedule.

"In the case of patents, the issue is much more complex . . ." This very complexity should have suggested that the reasoning was being done from fallacious premises. Let us use the premises that independent creation of an economic good results in independent ownership, and that ownership is to be indefinitely recognized. What then becomes of the many objections to indefinitely continuing to recognize an innovator's right to dispose of the economic good — the data — that he has produced? How could such a system work? Would it be a free market system or must we have a single State Patent and Copyright Office?

Suppose that I invent a pocket wired program electronic computer which I hope will displace the slide rule. I take the plans to a privately operated organization which I shall call a data bank. I purchase one of the data bank's many services; I register the plans. Insofar as nothing similar existed previously, independent invention of that data is thereby established. Of course, I also register features which are not unique and totally novel. I have learned of some of these features elsewhere, which I so state, giving the source. Some of the features which I claim as my own independent innovation may also have been created elsewhere, independently, without my knowledge. If I wish to have my claims of independency generally accepted, it behooves me to go into considerable detail concerning my innovative processes; sources of input ideas should be meticulously catalogued and the logical and intuitive (roughly algorithmic and heuristic) course of my invention charted as clearly as possible. The definition of boundaries proceeds from this antecedent material.

If I anticipate commercial interest in my product, a may purchase another of the data bank's services; for a fee they will perform an investigation and publicly state (with their reputation behind it) those features that they believe to be independently created by me. (Since this is a philosophical dissertation rather than a blueprint for setting up a data bank, I will not consider here the technology for establishing independency). When I find definite commercial interest, the data bank may be asked — for a fee — to guarantee the independency of certain features, the guarantee transfering the financial responsibility for possible stolen data from the manufacturer to the data bank. The independency and boundary determination technology would soon become far superior to that involved in current patent procedures and suits; the State monopoly in this field has discouraged research and development of such procedures just as other State monopolies have discouraged R & D in their respective areas.

The concept of contractual transfer is at the core of properly protecting the proprietary status of data. This matter has been given less attention than it deserves, perhaps because data can be replicated with much less cost and effort than most objects. Many of the same principles and techniques apply in the contractual handling of data as in material property, and State involvement is no more useful in one case than the other. Let us return to the pocket computer example. Suppose that I sell non-exclusive rights to the data for $10 per computer. Anyone who is to work with this data — such a as manufacturing personnel — do so under voluntary contract, this contract not allowing disclosure outside of those under contract, and probably setting forth the framework under which improvements that these personnel develop will be handled. (Before signing such a contract and gaining access to the data, it would be advisable for a contractee to register any similar data of his and thereby inexpensively establish any independency from the data to be received.)

Although the device is sold to distributors and consumers, the data is not. A contractual condition of sale prohibits opening the device by someone who has not signed a contract (as would servicemen) and requires this contractual condition on resales.

So far, all transfers of data have been on a contractual basis and State intervention has been no more necessary or desirable than in the case of contractual transfers of material goods.

A discussion of justice as an economic good produced most effectively in a free market and applied to breach of contract would be most germane at this point; however, a minimal description of market versus State monopoly justice and restitution as the standard of justice would be several times as lengthy as this paper.[1] No attempt will be made to "improve the State" by trying to integrate these concepts into a political matrix. The reader is advised to carefully consider the fact that it is profitable to act in accord with the nature of the physical universe and the laws of human action and that the edicts of the State cannot isolate one from the consequences of doing otherwise.

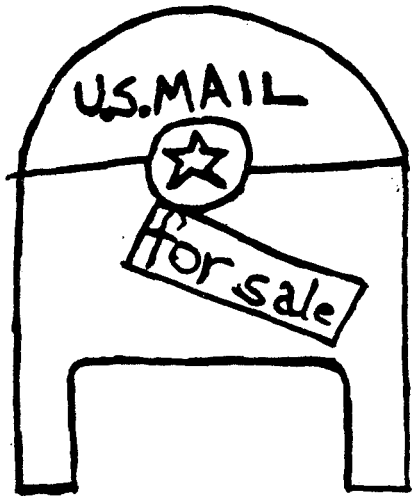
The data banks will have profound and extensive effects. The building of banks, stock markets, etc. (even under the yoke of statist market distortion) has been essential to the rational organization of large scale human interaction. The construction of markets and protective mechanisms for data can be expected to have an effect even more pervasive, dramatic, and valuable than the fantastic developments of strictly material capitalism. The wonders of what little capitalism the statists have so far allowed will be very small compared to the production in a free capitalistic market that embraces all economic goods.

Notice: The ideas expressed herein were developed by me from autumn 1964 to summer 1965. Intellectual debts to Einstein, Von Mises, Rand, and Lorentz are clear. For an independently developed highly elaborated course on this subject, contact A. J. Galambos, Free Enterprise Institute. It will be well worth your time and money. (This plug is unsolicited.)

Skye DeAureors is the publisher of the Libertarian Connection and a physicist.

to 32

Neither sleet, nor...(forget it)



Dr. D. T. Armentano

Should the government deliver the mail? To begin to answer this question, it seems best to pose a series of additional queries. Should the government deliver automobiles? Surely, no other economic commodity is more crucial to the continued health of an industrial economy. Unless, of course, one considers the value of steel and petroleum but, then, maybe the government should deliver these, too. One would have a difficult time convincing a mother that milk and clean diapers are any less valuable than steel ingots.

Should the government, therefore, deliver milk and baby diapers? My newsboy would be sad, indeed, without his bicycle. Should the state deliver bikes? Anyone for ice cream?

All goods or services sold to consumers or firms have, at one time or another, been "delivered." Milk, eggs, leather, lead, plastic and corn flakes are delivered to home, shop and store as a matter of routine. They are delivered because delivery is a service for which people will pay—and ***pay*** or ***revenue*** together with ***efficient operations***, is a source of ***profit.***

The same principle holds for the delivery of Janpanese radios, Middle-Eastern petroleum, Hong Kong ashtrays, Florida oranges and Maine potatoes. Although the particular good or service might be heavy, difficult to handle, spoilable, breakable or dangerous, its successful delivery at a competitive price is standard procedure in the business world. In almost all instances, the production and delivery of these particular items is accomplished by a group of privately owned, competitive firms, which have obtained patronage because they offer the most attractive service at the most competitive price, and earn a profit in the process.

And so it is with almost every form of delivered goods or service, ***except*** mail delivery. At present, the transportation of written messages is the sole responsibility of the Post Office Department; open competition between private firms in this specific area is strictly prohibited by law.

Other forms of mail (newspapers, magazines, some direct-mail advertisement) may seek alternative modes of transportation. In fact, however, postal restrictions on the private use of mail boxes, and taxpayer-financed subsidies in the form of below-cost postal rates to these particular users effectively tie them to postal delivery.

For all practical purposes, therefore, the governmentally owned and operated Post Office Department is a monopoly.

A governmentally owned monopoly differs in essential respects from a private firm on a free, competitive market. Every private business enterprise that is free of governmental interference operates in an atmosphere of competition against all other firms for the limited dollars of consumers. To compete successfully against rival enterprises, private firms are required to improve their products or services, keep their prices relatively low and curb their costs. Profits indicate efficient management and consumer satisfaction, and allow for continued long-run operation. Firms which do not maintain efficient operations and fail to satisfy consumer demand are punished with losses and, eventually, forced to leave the market. Thus, the uncoerced choices of consumers and the profit and loss mechanism of the competitive market generally insures that currently producing firms are efficient, in the process of becoming efficient, or about to be pruned from the ranks of producers by more efficient competitors.

The Post Office Department is not subject to any such competitive pressure. First, and most important, its continued existence is not a function of its economic performance. The Post Office, unlike any private firm, need not return a long-run profit to remain in "business"; deficits can and will be financed out of general tax revenue. Thus, the existence of the Post Office depends on the involuntary "ability to pay" of the American taxpayer, and not on the efficient satisfaction of consumer demand.

Second, effective private competition with postal services is either impossible due to subsidies or illegal due to legislative prohibition. Thus, both competition and "profit-loss," the essence of the market mechanism which attempts to insure efficiency and consumer satisfaction in a free market, are virtually absent in mail delivery. In effect, we must take and pay for whatever the postal authorities choose to offer.

What does the Post Office Department choose to offer at our expense? The Post Office, with its 681,000 employees and 35,000 post offices, is an inefficient, bureaucratic, quasi-political institution, ruled and dominated by Congressional patronage, vocal pressure groups and nine strong unions. It is, in short, not a "business" enterprise at all, but an elaborate political organization designed for the dispensation of jobs, favors and political plums. ***(These figures are out of date – Ed.)*** For example: qualifications for postmaster (including the Postmaster Gen-

eral) and some mail carriers typically run in terms of political affiliation and party loyalty rather than in terms of technical proficiency. Even erecting new post offices and scrapping old ones is more a game of political spoils than serious economic calculation. Postmaster Generals, like the recent Mr. Day (929 days in office), who refuse to actively participate or extend the labyrinth of political manipulations, frequently resign.

Although "politics" seeps into almost every aspect of postal operations, nowhere is it more obvious than in the determination of the rates of postage. First-class mail users, politically the least organized, are charged the most, even though their mail is the cheapest by weight to deliver. Second class mail users, the newspapers and magazines, typically pay about one-fourth of the cost of their postal delivery. Third class mailers pay about 60%-70% of the cost. Taxpayers are called upon to make up the difference. Special fourth-class "educational" material travels even cheaper and mostly at public expense.

There can be little doubt that the rates of postage are influenced more by political pressure within Congress than by the economics of mail delivery.

The postal operations themselves are archaic and inefficient. For example, most of the large city post offices—built during the 1930's—were built to move most of the U.S. mail by rail. Unfortunately, the number of train runs has declined drastically, leaving the Post Office Department holding the delayed mail bags.

Proposals to remedy the situation of slow mail delivery by combining first-class and air-mail into a single category have consistently met opposition from entrenched vested interests. In addition, the boom in business mail (80% of the 40 billion first-class letters), direct mail advertising, and the changing patterns of population growth have caught the Department by surprise. The 80 billion pieces of mail delivered in 1966 arrived a full decade earlier than Post Office expectations. Most of the deluge was sorted and sacked by hand at a snail's pace of about 35 letters a minute; each individual letter was handled an average of 10 times before it finally reached its destination. Some of it reached its destination at speeds comparable to the Pony Express days of nearly 100 years ago.

The necessary consequences of the "politics," bureaucracy and inefficiency are, of course, continuous postal deficit. With amazing regularity, the Post Office has shown a deficit in parcel post, postal insurance, special delivery mail, second, third and fourth-class mail delivery, money orders, registered mail and C.O.D. services. In spite of a total first-class mail monopoly and other special privileges such as complete tax exemption, the postal deficit in fiscal 1966 will exceed one billion dollars.

Yet should any of these sad facts be unexpected? Is it really surprising to discover rising costs, poor service, little technological change and gross inefficiency in an essentially political organization, isolated by subsidy and law from the discipline of the competitive market? On the contrary, as careful observers we should have expected little else.

The real question, therefore, is not "why is postal service so bad" but, rather, "why is the government in the mail delivery business in the first place."

Why do we entrust the production and delivery of almost every other commodity to the market place (even so-called public utilities are privately owned and run at a profit), yet refuse to allow private firms the opportunity to compete for the potentially lucrative business of delivering 80 billion pieces of mail? It is to this question that we now turn.

To comprehend the present governmental involvement with mail delivery, it is necessary to understand the historical role of government in the transmission of written messages. The first recorded organized postal service was established twenty-five hundred years ago by King Cyrus the Great of Persia. His royal messengers operated on scheduled routes over "post" roads and delivered royal edicts and reports to governors throughout the Persian Empire. Grecian and Roman states also used a governmental post to communicate official information to the extremities of their territories; at the same time, they generally forbade the use of the post to the transportation of private letters.

The early history of mail delivery displays abundant evidence that the state assumed to itself the responsibility for control and transmission of the written word. Although private message delivery was by no means absent in these early days, it more than likely operated in the shadow of quasi-legality, if not outright state hostility.

British and Colonial American history reveals the same trend in mail delivery development. Henry VIII, who established the first formal postal system in England, apparently deemed the service to be the exclusive prerogative of the Crown. The first Colonial post in America was, consequently, a monopoly patent, granted by the British Crown to one Thomas Neale in 1692, with full authority to erect post offices for the receiving and dispatching of written communications. Shortly afterward in 1693, New York and New Hampshire made it illegal for anyone other than the official postmaster to collect, carry, or dispatch mail. In 1700, the British Government formally authorized Colonel John Hamilton of New Jersey to set up a continental postal system, and by 1711, weekly mail runs between Boston, New York and a New York to Williamsburg, Virginia route was established on a bi-weekly basis between 1711 and 1717.

After the American Revolution, the Continental Congress, in the British Tradition, restated the familiar idea that the postal system was a legitimate and necessary governmental function. Article Nine of the Articles of Confederation granted the Congress "the sole and exclusive right and power . . . of establishing and regulating post offices from one state to another throughout all the United States . . ."

The Constitution, Article One, Section Eight, extended the tradition by granting Congress the power to establish post offices and post roads. The enforcement of an "Ordinance for Regulating the Post Office of the United States," dated October 18, 1782, was the first formal attempt to prohibit private competition with the governmental post. Finally, in a series of declarations, all with legitimate Congressional authority, succeeding Postmaster Generals declared first city roads, then country roads, and then waterways, canals, railroads and eventually even the airways to be "post roads," thus making potential criminals of all who sought to communicate mail for private fee or profit.

From 1860 to the present day, the monopoly position of the postal service has not been effectively challenged.

The assumption that mail delivery should be a governmental responsibility

can be challenged by posing two questions: first, what are the historical or present-day justifications for governmental mail delivery; second, are these justifications valid or not.

In broad political terms, it seems difficult to justify mail delivery as a legitimate governmental function. Typically, governments have been characterized as organizations created to protect man's inalienable rights. Since rights are violated by physical force, legitimate governmental activities have attempted to secure rights or bring to justice those men who have violated the rights of others. Traditionally, therefore, the legitimate functions have included the duty to maintain public law and order, provide defense against foreign nations, and establish an effective system of courts. More recently, these minimal functions have been extended to cover a variety of governmental interventions in the market place, such as providing for a sound and stable currency and a minimum standard of living.

Without even questioning the soundness of this extended list of functions, it soon becomes obvious that the inclusion of mail delivery within this list would be inappropriate. Governmental communication of written messages has nothing to do with the securing of man's rights, defense or justice (though it has much to do with ***violations*** of man's rights), nor can any ***unique*** significance be given its economic value to the economy. If mail is a governmental function, then so is, with the same logic, the delivery of practically everything else. The fact remains that there is nothing inherent in the nature of delivering private paper envelopes that necessitates that it be a governmental function. On the contrary, the private and completely personal nature of written communications inherently dictates that they be ***free*** of governmental involvement and trusted only to the free market.

In early mail history, it is maintained that a government postal monopoly was required to dispatch official rules and decrees to distant parts of empires. Unfortunately, this explanation does not explain why a ***monopoly*** in such services was necessary. There is, however, good reason to believe that early rulers sought and obtained a monopoly in this service because they feared the ready communication of "anxiety" and popular discontent about their political regimes. Thus, to suspend "the legal traffic in private letters" was a useful political device—common to all dictatorships—to suppress the circulation of political ferment.

Surely, this justification for government mail monopoly can not easily be defended. To control mail delivery in an effort to suppress the circulation of political criticism, must clearly be offensive to anyone seriously committed to the principles of a free society. Aside from the questionable issues of total wartime circumstances, censorship, regulation of content, mail "supervision" and the outright prohibition of the transportation of private messages are unjustifiable abuses and violations of the freedom of speech and peaceful action. Anyone steeped in the liberal tradition of the "rights of man" must seriously doubt the government's right to establish and maintain a mail monopoly.

Another suggested reason for governmental involvement in the transportation of letters is the obvious financial gain involved when the "monopoly privilege" was exercised by the state, or let out to patentees at a handsome fee. Once revenue became the important consideration, a government monopoly in the service was mandatory; private competition would only compete away potential governmental revenue.

It is extremely doubtful whether anyone today would suggest that we use a postal monopoly to raise tax revenue for the national government. Wholly apart for the obvious questions of inequities, the fact remains that the Post Office has, historically, been a serious drain on the public treasury. Although it is conceivable that the Post Office ***could*** be used as a source of tax revenue, it is extremely doubtful that it ***would*** be used as such.

A third possible historical justification for federal mail delivery is the argument that the mail became a governmental function because private enterprise could not or would not do the job itself. Unfortunately, the facts of the period tell a different story entirely. Throughout the history of mail delivery, when private competition was not specifically outlawed, or when the fines for violating the law were small or unenforced, there is ample evidence to suggest that private mail transportation was a vigorously growing enterprise. In the Colonial period, for instance, private mail transportation continued despite governmental prohibition. In fact, the official British Postal System inadvertently encouraged private delivery since its rates were typically higher than private postage. As the country grew, so did the business of private messengers and the willingness of traveling businessmen and personal friends to transport letters to distant locations.

By the middle of the 1830's, a number of "expresses" or dispatch companies were functioning, offering direct competition to the usually less efficient and more costly governmental service. While government mail could only be received and posted at inconvenient post offices, the private dispatch companies maintained pick up and collection boxes in hotels and other easily accessible locations. By 1843, at least twenty private mail delivery firms were soliciting for business in the Boston area alone. In both 1845 and 1851, the private expresses undercut the tax supported postal system prices enough to force reductions in the rates of "legal" mail. Finally, in 1860, the revenue being siphoned off the lucrative routes by "bootleg" mail delivery was sufficient to cause Postmaster General Holt to enforce the prohibition against private delivery of mail along "post roads." Thus, the development of the "delivery" industry was nipped in the bud by legal prohibition. Private mail delivery firms were outlawed because their economic activities interfered with the maintenance of a government monopoly. The rationalization, therefore, that public enterprise simply did what private enterprise would or could not do is false.

A fourth historical justification for governmental involvement with the delivery of private messages is the less than satisfactory rationalization that mail delivery was traditionally a function of the state, had not performed that badly, and could probably—without much difficulty—be kept on as a governmental function. Both Adam Smith and the "Founding Fathers", especially Madison, seemed to have little fear or anxiety concerning the activities of a government post office. Smith was even of the opinion that the government post office could return enough of a profit to finance new capital facilities. Unfortunately, "tradition" is no guarantee of feasibility or desirability, and the experience of the past 200 years has surely not born out such optimism. To retain a governmental mail system simply because it is traditional, is pure foolishness.

In summation, therefore, it appears

that there is little ***historical*** justification for governmental mail delivery or monopoly.

If there is little historical justification for government mail delivery, there is even less convincing contemporary argument. For example, some economists conclude that the government should undertake the production of goods and services which are uniquely "social" or "public" in nature, that is, those which presumably must be consumed in equal parts by all members of the community to be enjoyed at all. National defense is usually cited as the most obvious example. It is further maintained that some goods render benefits not retrievable through private markets, and that the production of these goods must also be undertaken or at least subsidized by the state. Without debating the validity of these questionable theories, it is enough to note that mail delivery clearly fails to meet these qualifications.

Mail delivery is not an "indivisible" good; it can be enjoyed individually, directly and completely by anyone in any amount. Further, its "benefits" can be excluded from the rest of the population by their failure to consume. Thus, mail delivery is a marketable good like "dry cleaning delivery" is a marketable good, and can not be hidden behind the dubious fascade of being designated a "social" good. There is no economic reason why its production could not be provided by competitive firms on the free market.

A supposedly more sophisticated economic argument for government mail monopoly speculates that when production of a commodity takes place under conditions of decreasing long-run average costs, a large firm, facing the entire market demand, would be better able to experience low costs and offer low prices than a series of competitive firms, all smaller than optimum (least cost) size. Since mail delivery supposedly takes place under conditions of decreasing costs, it is suggested that a mail monopoly is best since it could produce the service cheaper and charge a lower price.

There are strong objections to this line of reasoning. In the first place, there is no way on earth to compare the cost curve of a government mail monopoly with the cost curves of nonexistent private, competitive enterprises. Theoretically, the government monopoly should be able to operate on a lower portion of its decreasing average cost curve, and charge lower prices to its consumers. In fact, however, it seems more than likely that the entire structure of costs for private firms would be below the government monopoly's curve due to the efficiencies induced by inter-firm competition. If the spectacular increases in efficiency that have occurred in other modes of delivery where private enterprise has been predominant are any rough guide, this would seem to be a safe assumption. Surely, the history of the last 200 years of government mail monopoly does not lead us to the necessary conclusion that we are getting optimal economic performance from the Post Office.

Further, all arguments for monopoly (public or private) neglect the fact that costs and prices are only one aspect of the total "package" with which consumers are concerned. Many consumers, for instance, would appreciate the opportunity for alternative choices presented by a competitive mail system. Unfortunately, the value of alternative choices is brushed aside by advocates of government monopoly.

The final argument to be considered for government mail monopoly is the charge that government monopoly is necessary to service the rural routes which would be unprofitable and, therefore, neglected under a system of private mail delivery. This charge, however, has serious practical and theoretical difficulties. In the first place, the charge has never been proven. Second, if rural recipients or letter-senders into rural areas are willing to pay the price of rural delivery, then they shall have it. There is absolutely no reason to assume that rural mail delivery could not be accomplished at ***some*** price sufficient enough to generate profits for competitive firms. Whether the price would be higher or lower than the present price is a question that only the market and competitive conditions could answer. What advocates of government monopoly are objecting to when they claim that private enterprise could not profitably deliver mail, is really the fact that in a private system, the rural mail dweller or rural mail sender would no longer be able to involuntarily ***tax*** the city dweller to subsidize the more expensive rural delivery. In this contention, at least, the advocates of government mail monopoly are absolutely correct.

In conclusion, there is absolutely no sound economic or political reason why the delivery of mail need necessarily be a governmental function of a governmental monopoly. On the contrary, there are very sound economic and political reasons why it should ***not*** be either of these. In a society founded (implicitly, at least) on the principle of free-enterprise, a government postal monopoly is both inexpedient and improper. We could, in all likelihood, achieve a faster, cheaper, more efficient and more diversified mail delivery system by entrusting this potentially lucrative activity to the discipline of the free market. We would also, at the same time, achieve a delivery system more in keeping with the political economy of a free society.

Have we the political courage and the moral integrity to try? ■

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Derek Kittridge/Catalyst

Call for Papers: accelerated cultural evolution (ACE)

To promote the efficiency of social change, the editor of REASON magazine releases this call for papers on the subject of accelerated cultural evolution (ACE; see Libertarian Connection). Although contributions on any aspect of the subject are encouraged, to avoid duplication of effort, the editor asks contributors to communicate their intentions prior to actual generation. The list of topics below is partial; it should not be taken as a full range of acceptable material. Papers selected will be printed in a special (fall) issue of REASON devoted exclusively to social change. Later, should the necessary financial and organizational backing materialize, we hope these papers will become the core material for a full scale libertarian ACE conference on both East and West Coasts in late 1970 or early 1971.

We believe that this seeding process, offering financial incentives long before the date of a proposed conference, is currently the best method to maximize the intellectual, financial and organizational success of such a conference. We don't wish to sponsor or organize the conference itself; only seed it. If libertarians are to achieve the goal of cultural freedom, we think a conference (perhaps several) of this type is of critical importance. Parties interested in (co)sponsoring or organization should contact the editor. Final drafts of papers should be delivered to our offices by 15 September 1970.

Some possible topics:

Revolution vs. evolution: practical and moral considerations.

Revolution: definition and types.

The role of profit/loss indicators in successful evolution.

The role of alliances with politically divergent groups.

Optimal activities: co-optive/pre-emptive, election work/jury nullification/mass demonstration/black market/education.

Discussion of the role of the state and state supported/created institutions in slowing radical social change and distorting proper cultural-epistemological development.

Methods and importance of counteracting the effects of socially stabilizing institutions (tax withholding, public schools, etc.)

What kind of organization is best suited to the task of the ACE, given current cultural conditions.

Radicalizing the mass media.

Dismantling the public school system.

The need for an anthropological approach to social change.

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Lawyers and Free Speech

Tibor R Machan

Lawyers frequently charge of laymen that their conception of law is far too rigorous to be in accordance with law as it actually operates in our system. No doubt this charge is justified in all too many cases. Yet when it is levelled against those individuals who merely declare their preference for a legal system of laws which is comprised of principles and measures that are in fact rigorous both in definition and application, the charge overshoots its mark. These laymen are not interested in the obvious but unfortunate fact that the bulk of the laws of our legal system are actually quite loose and subject to so wide a range of interpretations that the same law is at times applied to support contradictory verdicts and judgments. Their interest lies, instead, in what the law ought to be, an interest that surely is immune from criticism which relies on actual and past situations to support its claims.

In this short paper I would like to offer some suggestions to those individuals in the legal profession who are concerned and have worked with the idea of improving that area of our legal system which deals with pornography. There are many lawyers who have done considerable work on cases dealing with pornography statutes and who have, from time to time, argued for the complete elimination of such statutes on various legal and philosophical grounds. I am concerned with one specific legal ground that has in the past been used in an effort to eliminate laws against obscenity or pornography, i.e., censorship laws.

A frequent counter to the request for legal regulation of certain types of publications commonly labelled "pornographic" and "obscene" has been the claim that a precise definition of pornography and obscenity is impossible. Therefore any judgment to the effect that a certain picture, book, motion picture or other kind of creation is pornographic or obscene must necessarily be unjust; it is, after all, clearly impossible to specify what is or is not obscene and pornographic if standards are impossible.

In response to this kind of criticism the Supreme Court has attempted on several occasions to define obscenity but its definitions have failed miserably not only for purposes of language usage but for the planned legal aims as well. Since the Court wanted to refrain from indulging in moralizing, in its attempt to define obscenity it tried to relativize the meaning for the term with such a phrase as "social redeemability". This move merely made the law virtually impossible to apply equally, since hardly any community in the United States has the same social make-up and considers the same things socially redeeming.

Despite such difficulties, the Court's relativistic approach has been welcomed by a number of attornies and civil liberties organizations, who view the controversy over obscenity and pornography as one between those who would assign specific meanings to words and those who would prefer language more diffuse and inprecise. With the view that none of the words in the language can have the kind of precise meaning that is ideally desired in the law, it becomes simply a matter of pointing to such words as "obscene" and "pornographic" as perfect examples. Since there is no real destruction of life and property in crimes involving obscenity, the thesis that by virtue of the lack of precision of the term the whole legal matter should be dropped appears to be a hopeful one. In other words, if we want to assure that individuals are left free to pursue their various activities, including some that others don't like very much but cannot prove to be harmful, the best thing to do is to show that these activities don't really exist at all - that there is no way of detecting them, defining them, etc., for legal purposes.

While this approach may be understandable and even sometimes fruitful, it is open to criticism. First of all, the success of this approach depends heavily on the mutual interest of courts and civil liberties attornies and organizations to foster artistic, economic, and literary freedom within the territory of jurisdiction. If both the courts and these agencies desire that firms and people charged with obscenity or pornography be left alone to pursue their ends, then this tactic will succeed. But should a court decide to do so, it may reject epistemological agnosticism, and, proposing its own definition of obscenity, proceed to class all sorts of creations within it for legal purposes.

The simple fact is that there is plenty of obscenity around; all we need do is look or ask. Even without a precise definition of obscenity, it takes little effort to distinguish between an obscene picture and one that merely depicts artistic conceptions in radical terms. There are, in other words, many cases of outright obscenity and pornography and it is plainly ludicrous to say that they are comparable to the creations of history's great artists. The same can be said with regards to films, books, magazines, plays, etc. The fact that in some cases there is great difficulty in telling the obscene from the artistically innovative and meaningful does not contradict the point; after all, even with two fairly easily distinguished articles of furniture, tables and chairs, there are varieties which could fit into either category.

The problem of the legal treatment of borderline cases is, of course, an acute one. The slightest possibility of a mistake

Derek Kittridge/Catalyst

should, in most cases, warrant a judgment in favor of the accused. But in cases of obscenity what is required is not greater precision, but a legal system that does not even concern itself with activities (writing, reading, filming, painting, etc.) which are obscene or pornographic. So long as these activities do not abridge the rights of others to refrain from paying heed to them, there can be no sound reason for prohibiting their performance. The private production and sale of obscene or pornographic articles coerces no one into having to contend with them against their wishes. Granting that in the cases of the public sale and transportation of obscene material there exist the problems of just when does an article intrude on the life of someone who does not want it, the central issue is still whether the production and distribution of obscene material does, in fact, infringe on the rights of privacy. (Incidentally, the complaint that obscene magazines appear on "public" news stands should have no bearing on the question. After all, ***Time, Look, National Review*** and other publications which also appear thus can be of a similar offensive quality to some of those who cast their eyes upon newsstands. Does this "offense" warrant court action and prohibition? Certainly not in their case. So there is no reason it should in the case of magazines of more generally offensive natures.)

The First Amendment establishes the legal recognition of the right to a free press in all cases, not merely in uncontroversial cases. It is precisely in controversial cases that this guarantee is of greatest importance. While one can certainly criticize the exercise of a right without calling the propriety of the right into question, any attempt to make and enforce laws against obscene publications constitutes just that kind of an attack on the propriety of the guarantee of the right of free press.

There are those who would argue that since the First Amendment is "compromised" in other instances, for example with regard to yelling "Fire" in a crowd, there cannot be an objection to this additional compromise. The question is really whether yelling "Fire" in a crowd is an exercise of free speech at all. While a number of legal experts have said that yelling "Fire" in a crowd is an example of exercise of free speech, this is fundamentally confusing. The reason for the confusion is the whole issue of a sphere of authority. For example, if a guest of John starts yelling "Fire" in John's back yard and John stops him, John has in no way impinged with the guest's right of free speech. And again, if a theater owner evicts a man for yelling "Hi-Ho" in his theater, that does not constitute an infringement of free speech rights. Both of these cases fall under property rights considerations; in other words, in both cases what is at stake is not what was said, but where and how the words were spoken. Even in cases where the above considerations are of no significance, it is still not the fact that something was said - a certain point of view was offered for consideration - but that saying this particular word, in this way, at this point necessarily interferes with the normal course of events, especially if what was said is false. To yell "Fire" in a crowded theater when there is no fire constitutes a lie of such grave significance that its implications burden the person who did the yelling with certain responsibilities for which he can be held legally accountable. But this is by no means an example to show that exercising one's right to speak freely is often discouraged by law. Anyone, after all, is permitted to turn to his friend while sitting in his own home and tell him that there is a fire in the kitchen.

The First Amendment is not compromised by certain disallowances of indiscriminate yellings (of, e.g., "Fire"). But it is compromised seriously by any disallowance of speaking obscenely or writing pornography. In these cases there is no coercion involved - no one is required to listen or read as in the case of yelling "Fire". To deny someone the legal protection against those who might want to stop him from writing and publishing obscene or pornographic material is, however, to run squarely in the face of First Amendment provisions, especially when it is a governmental agency which is about to stop such activities. Whenever the Supreme Court upholds an act of this nature or refuses to rule against one, it is disregarding a blatant abridgement of free speech rights.

The Founding Fathers seemed to have had great respect for human beings, at least implicitly. Their judgment in forbidding government to determine truth or worth in works or art, science, politics, etc. had to rest on the confidence that the citizenry is competent in determining these matters. It did not constitute a denial of the possibility that truth and worth ***can*** be determined; sensing the implications of legally supported determinations of that kind - namely that truth will be sacrificed to political favoritism if the latter is required for the upholding of the former - they refused to allow the government to meddle in questions of truth and worth except in very special cases.

It would be wise if those who aim at retaining the separation of state and judgments of worth – including what is or is not obscene – were to admit that bad and obscene and pornographic materials do exist, while denying that this entitles any legal body to take action against those who produce them. When such civil rightists and constitutionalists rely on the judgment of different courts, to the effect that a particular question cannot be decided because the issue is a matter of people's subjective identifications and definitions, they ground the freedom of the press and freedom of speech not in legal protection but in men's subjective judgments. And while temporarily we can aim at liberating artistic expression through the evasive claims that no one can know what is obscene, hoping that the judge agrees with this agnosticism, there is no legal guarantee that the next day's judge is not going to disagree with us. In that case what will be needed is another approach to freeing those who for various reasons want to produce and sell obscene or pornographic works. So at the outset the aim should be to divorce law from artistic judgments concerning the worth or desirability of various creations, instead of confusing the law to the point where any legal agent can play havoc with it, depending upon his own subjective feelings of the day. ■

critique: contemporary concept of visual space and the visual–physical space dichotomies

Richard Perkins

ABSTRACT

A gross ambiguity exists in the literature regarding the meaning of the concept of visual space and physical space. The source of this ambiguity is discussed and analyzed. Two different concepts of consciousness are suggested in place of the former visual-physical space dichotomy.

There is a gross ambiguity in the meaning of the concepts of visual-space and physical-space in the literature. Sometimes these concepts refer either directly or by implication to the Berkelian concept of cognition; sometimes they refer directly or by implication to the Kantian concept of cognition; and sometimes more than one interpretation appears in the same paper. The result is confusion in a clear understanding of visual perception.

This paper will (1) identify the meaning of these interpretations; (2) discuss their chief contradictions; and (3) suggest a new terminology to assist in clarifying some of the problems involved.

The Berkelian meaning of visual space is exemplified in a quotation by Ogle[1]. Ogle quotes Hering as translated by Hoffman:

"It is a familiar fact that we do not always see objects in our environment exactly in the shape and spatial arrangement that is 'actually' theirs, according to the totality of our experience. Especially striking differences arise from the fact that all objects observed from a great distance appear much smaller than when observed close to. The apparent size relations of the separate parts of objects which have a considerable depth extension do not coincide with the actual ones . . . Accordingly we must differentiate between the real objects and the visual perceptions that are elicited by 'subjective visual objects.' The totality of all the simultaneous visible ***subjective visual objects*** forms the ***subjective visual space,*** or the ***subjective visual field.*** In objective space these correspond to the ***objective visual field,*** that is, that portion of actual space that is visible to us at one time in one given eye position.

"But the difference between the spatial characteristics of the external object and its corresponding subjective visual object, between objective visual space and subjective visual space, is even more extensive than the above examples show, since they only illustrate the manifold contradictions between the two. When we apply a measuring rod to an object, and measure its extent, we do indeed obtain its ***objective*** extent, but we do not ascertain any information as to the ***subjective*** size of the measuring rod or the object we have measured with it. Under certain conditions the two objects may appear to be of different size. Look with one eye, while the other is closed, at a window several meters away. Then hold one finger so close in front of the active eye that you have to accommodate on it with difficulty. As soon as this is done, the window shrinks and seems smaller than when one observes it without the effort of accommodation. Of course, a measuring rod behaves in precisely the same way if it is applied to the window at that time. Thus, the objective size of the window gives us no information as to the subjective size, either of the measuring rod or of the object—the window—that it measures. The spatial extent of objects does not give us any standard for the size of subjective, visual objects.

". . . We can only demonstrate changes in the standard of the subjective visual field. In ourselves we can determine those changes subjectively by comparison with former experiences, such as in the above experiment with the window. In the case of other individuals, we usually have to resort to such comparisons and the statements of the people concerned. In view of the above, it is impossible to compare the absolute size of subjective visual objects with the imagined real size of objects. We can only compare the size relationships of subjective visual objects and the mutual position of the corresponding external objects."

The use of the term "visual objects" by Hering derives from Berkeley's "Essay Towards a New Theory of Vision." Readers of Berkeley[2] can observe that his essay is more than a treatise on vision. It is also an essay on metaphysics; on the nature of existence. Berkeley makes a radical point in his essay about the nature of reality. He claims that the entity which is perceived by sight is radically different than the entity perceived by touch. It is, he claims, numerically different, and specifically different. It is not the same. Berkeley bases his whole theory on the causal theory of perception. This theory of cognition holds that reality is the cause of perception, but not the object of percep-

tion. Berkeley expands his whole theory on these premises and the contradiction which invalidates his theory is this: perception is not, nor cannot be, an object of cognition. It is a form of cognition, and because of this one cannot speak of perceiving a perception[a]. One can only speak of awareness of a unitary reality, to a greater or lesser degree. For example, the causal theory allowed Berkeley, and others, to conceive of a consciousness perceiving retinal images, because he held that what is perceived was not reality but rather "visual objects." These visual objects, according to Berkeley, are a type of flat visual field of color and form that exists "somewhere" in the mind. Berkeley develops the dichotomy of the visible object (the visual object) and the tangible object as being two separate, and distinct, spatially unrelated entities. Thus the space we see and the space we touch (or measure) are not the same spaces.

Berkeley's theory should be rejected because it flatly contradicts the law of identity and all rational argument presupposes this law. A thing cannot be itself and something else simultaneously.

Consider the following examples of the Berkelian frame of reference. (These examples are random selections, which are used to illustrate the point of this paper. They are not evaluations of the papers or books themselves.)

Gibson[3a] says, "A ***visual object*** in depth may be analyzed in terms of several abstract variables which are interrelated to one another."

Or, consider the following quotation by Alberta Gilinsky[4]: "The perception of distance or depth is a fact, and must be included in a generalized theo theory. But that does not mean the true or physical distance D, for the physical distance is not perceived. What is sensed or perceived is the perceived distance d, and that is the only distance that is subjectively realized and therefore . . . ."

The question to ask Gilinsky is: ***"What other distance exists that we may perceive, apart from the 'real' distance?"*** The answer must be, of course, none. Gilinsky's error is in holding the premise of the causal theory, and assuming that one can perceive a perception. One cannot, and because of this, the concept of perceived distance, as used in Gilinsky's context, takes on a very obscure meaning that renders precise identification, by valid definition, difficult indeed—if not impossible.

A second and equally erroneous interpretation of visual space is the Kantian interpretation. It is also based on the causal theory. Space was unitary to Kant, but it, along with 13 other automatic functions such as causality and time, were imposed automatically and innately by an "a priori intuition." A priori intuition has been compared to a little man in the mind who sticks qualities into the raw sense data, beneath the level of consciousness. We, as observers, experience things always ***after*** something has been "automatically" added by mind. We thus never encounter reality as it is, said Kant, but only as it "appears" to be. This appearance he labeled the phenomenal world, and the real world he called the noumenal world. True reality, said Kant, exists but is unknowable. Kant's contradiction is basic. If reality is unknowable, how does Kant ***know*** it exists? Kant uses the concept of "knowledge," which means "knowledge of something that exists (or did exist)," and simultaneously denies that one can have knowledge of existence! This contradiction, plus the causal theory contradiction, invalidate the Kantian interpretation of the visual perception of space.

Now consider the Kantian premises of Gilinsky in the following: "The real objective size of a physical object is subjectively unknowable," One question to ask Gilinsky (and the scientists who share her premises) is: "What other size exists other than the real one that we may perceive?" Gilinsky epistemologically regards perceived size in a similar manner as perceived distance. What is perceived in her view is perceived size, but, as we shall see, perceived size and perceived distance are actions of visual consciousness, or visual perception. As such they cannot be perceived. They are forms of awareness of reality, not objects of awareness. The only objects of awareness (in the context of this discussion) are metaphysical (the real) distance and size.

Another typical example of the Kantian interpretation of visual space is shown in a quotation by Gordon Walls[5]:

"Although the innateness of the concept of spatiality has been considered one of the givens ever since Kant, the ordering and the occupation of visual space is by the things we see in it. If those things are projected then necessarily so is the space. No, we have no visual impression that is detached from, or in any way different from, the visual percept—the thing as perceived, and where perceived, ***which we take to be the real object until we are taught better***[b]."

Or: Consider the following statement by Gibson[3b]: "To what extent can we now account for the perception of the phenomenal world which is adequate for behavior?"

Or: Consider the sentences of Luneburg[6]: "Visual sensations are established under the influence of many different factors. They are the result of an activation of the mind by physical light stimuli and are distinguished by a remarkable degree of certainty and definiteness ***which tempts us to believe that the external world itself is revealed to us, and not merely an image of our own making***[b]."

The Kantian interpretation of the visual perception of space should be rejected because all consciousness is consciousness of reality. If reality (existence) is removed, there is nothing left to be conscious of. "Consciousness is the faculty of awareness—the faculty of perceiving that which exists."[7]

It is not irrelevant to this discussion to point out that this scientific confusion is caused by a priori explicit or implicit philosophic confusion.

In view of these ambiguities, the best definition of visual and physical space is probably that mentioned by Graham[8]:

"The definition of physical space has the set of points ordered by physical measurement, whereas visual space can be thought of as the set of points ordered by a subject's discrimination following certain classes of "space" instruction—such as "make an adjustment until the apparent distance between your setting and the light point to the left is the same as your setting and the light point to the right."

If we examine this definition we find it is possible to make a more basic identification of visual and physical space. The common denominator of visual and physical space, as given by Graham, is that both are actions of consciousness. The essence of visual-physical space experiments is that they endeavor to relate spatial relations as they are sensed or perceived visually with spatial relations as they are mea-

sured. The former is an act of consciousness limited to the visual perceptual level, as it identifies the spatial attributes of reality. On the other hand, physical space is seen to be an action of consciousness, at the conceptual level, as it identifies the spatial attributes of reality by measurement. Both these are concepts of consciousness. Now the concept of "space" is a metaphysical concept (i.e., a concept of existence). Space and/or spatiality is an attribute of existence defined by extension in three dimensions. The term, physical space, on analysis, means "space being conceived by measurement," and yet it more naturally is regarded as the metaphysical concept of space. Above and beyond this confusion are the implications of Berkeley and Kant that remain associated with the terms, visual and physical space.

The end result is a confused concept, which unnecessarily complicates a complex subject to being with. Can some of this confusion be clarified? I think it can be significantly clarified by abandoning the terms, physical and visual space, entirely and substituting in their place the following terms:

(a) *In place of the concept, visual space, the term, "perceived space."* This term, in full context, means: visual consciousness of space, or, visually perceived space, or space being perceived visually, or visual perception of space. At present the use of the term, perceived space, occurs ambiguously at times in the literature, where it is often used interchangeably with visual space[9]. All ambiguity is removed by eliminating the term, visual space, and using the term, perceived space, in the above context.

(b) *In place of physical space, the term, "the conception of space by measurement,"* or, space being conceived by measurement.

The concepts of objective and subjective space are ambiguous and equivocal for essentially the same reasons as are the concepts of visual and physical space, and it is held therefore that their usage be discontinued also.

By dropping completely the concepts of physical and visual space and substituting the actual descriptions of the actions of consciousness involved, the following advantages are achieved:

(a) It dispenses entirely with all implications of the contradictory causal theory of perception.

(b) It dispenses entirely with all implications of Berkeley's dualism.

(c) It dispenses entirely with all implications and contradictions of Kantian phenomenalism.

(d) It substitutes, instead, two simples descriptions of consciousness perceiving the spatial attributes of reality. Both terms clearly and unequivocally identify the nature of the action of consciousness involved. For example, the action of consciousness in the former is strictly limited to the visual perceptual level. The latter term clearly points out to us a crucial difference in the action of consciousness, which now involves the lower range of the conceptual level of consciousness, but which is still clearly differentiated from the other higher and more complex actions of consciousness at the conceptual level, such as abstraction and concept formation[c].

Using these new descriptions, then, it becomes incorrect to speak of the "perception of visual space," but correct to speak of the "visual perception of space." The former phrase implies one is perceiving a perception and the latter implies one is visually perceiving the spatial attributes of reality. The concepts of space, size, distance, etc., are regarded as metaphysical concepts of attributes of existence. They are objects of awareness. Perceived space, perceived size, perceived distance, etc., are regarded as specific actions of visual perceptual consciousness, engaged in the action of being aware of the spatial attributes (size, distance, etc.) of reality.

Dr. Richard Perkins is an optometrist. He has been engaged in private practice in St. Thomas, Ontario, for seventeen years. He graduated from the Ontario College of Optometry of Toronto, (now located at University of Waterloo, Waterloo, Ontario) in 1951. He has served on the executive board of the Ontario Provincial Optometric Association in the past, and at one time, served as abstract editor for the Canadian Journal of Optometry, to which he has contributed clinical papers. The concepts of Visual-space and Physical-Space, are anatomic-physiologic-perceptual concepts, taught to students of physiologic optics, and the paper is written specifically for such a scientific audience. However, the readers of **Reason** *may be interested in the paper, since it demonstrates the role and importance of epistemology in science. Philosophically, Dr. Perkins is not of the Objectivist school, but is rather, a Rational Anarchist.*

Acknowledgement

I thank Robert Efron, M. D., Chief, Neurophysiology-Biophysics Research Unit, Veterans Administration Hospital, Boston, Massachusetts, for his valuable suggestions in the preparation of this manuscript.

I thank also the W. B. Saunders Company, Publishers, West Washington Square, Philadelphia, Pa., for their kind permission to quote from Kenneth Ogles' book, Researches in Binocular Vision, 1950.

Notes

a

I am grateful to Dr. Leonard Peikoff, Professor of Philosophy at Brooklyn Polytechnic Institute for pointing this out to me in lectures he has publicly given, which elaborated on Miss Ayn Rand's original philosophy, Objectivism.

b

Italics mine.

c

The theory of concept formation referred to is that given in reference No. 7.

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3a

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to 32

Trends

Robert Poole

(REASON this month inaugurates a new regular feature - a digest of encouraging developments in the intellectual community. Libertarian ideas are increasingly being "discovered" by non-libertarians in diverse fields, as the irrationality and contradictions of the prevailing coercive ideologies become more obvious. Readers are invited to send in material for this column.)

a poverty solution: free-market urban transportation

A detailed study of the transportation needs of ghetto residents has been carried out by a UCLA political scientist. The study observed that neither public bus and subway lines nor government-regulated taxis provide transportation of the kind which could be critically important to poor people. The solution? De-control the monopolistic taxi industry by repealing the laws restricting entry to the market and regulating service features (routes, fares, number of riders, etc.). The author cites the vast diversity of service and degree of entrepreneurship of free-market taxi/jitney operations in Washington, D.C., compared with the decaying service in controlled-market cities. A free market would lead to more jobs for ghetto residents, increased entrepreneurship, transportation to presently-inaccessible job locations for many residents, and generally increased mobility.

For details, see: "Taxis, Jitneys, and Poverty", by Sandi Rosenbloom, ***TransAction,*** Vol. 7, No. 4, Feb. 1970, pp. 47-54 (published at Rutgers University, New Brunswick, N.J. 08903).

a fresh look at the urban crisis

Professor Edward C. Banfield of Harvard has been noted for his hard-headed rationality, in the face of emotionally popular issues. His 1963 essay "American Foreign Aid Doctrines" was one of that program's most thorough debunkings. Now, in a book published this April, Professor Banfield examines the urban crisis which the bureaucrats are valiantly trying to solve. Banfield does not deny the reality of the problems faced by the ghetto poor - racial prejudice, low skills, poor education. But, by citing statistics and case studies, he demonstrates the destructive effects of many of the programs imposed on the ghetto by white middle and upper-class altruists. Although libertarians will not agree with many of Banfield's recommendations, two are extremely significant, coming from a bona-fide member of the Extablishment: abolish the minimum wage and permit children to leave school at age 14 and go to work.

For details, see: ***The Unheavenly City,*** Edward C. Banfield, Little, Brown, & Co., 1970, 308 pp. $6.95.

deregulating interstate commerce

Nader's Raiders have just released their 1200-page report on the Interstate Commerce Commission, and their findings should be no surprise to any libertarian. The ICC, according to the report, operates a vast cartel on behalf of the 17,000 railroads, trucking, and shipping companies it is supposedly regulating. Its regulatory powers have led to the creation of thousands of local transport monopolies, protected from competition by force of law. What does the report recommend? Surprisingly, not "reform" of the ICC but its ***abolition,*** along with the Civil Aeronautics Board and the Federal Maritime Commission. The report does recommend a single new agency to replace them, but states that it should rely less on regulation and more on the free market to set rates.

Source: ***Time,*** March 30, 1970, p. 88.

Notes (by Tibor Machan)

1. The ***Journal of Human Relations,*** published at Central State University, Wilberprice, Ohio, & edited by Don Werkheiser, is explicitly libertarian and very good. It is the only "scholarly" journal of this sort.
2. T.R.M. will have an article in ***The New Guard*** on the Santa Barbara oil spill in April, 1970.
3. ***The New Yorker*** had very fine "Notes and Comments" piece on the press in February 28, 1970 issue.
4. Institute for Humane Studies is holding second annual conference on Individual Liberty and Property Rights from June 7 to 17 at Rockford College, Rockford, Ill.
5. Left/Right Festival in L.A. showed that Left and the libertarian Right are far apart. Major division: the criterion of justifying violent revolution as a general policy. Karl Hess did not show enough respect for the participants' sincere attempt to understand the details of his views, especially where they concerned the inevitability of revolution, its precise character, the alternatives open to libertarians in lieu of a revolution, etc.
6. The Peter Michelson essay on Ayn Rand's ***The Romantic Manifesto*** in the February 24th issue of ***The New Republic,*** recommended by ***The Libertarian Forum*** (editor: M. N. Rothbard) is nothing but verbal acrobatics; it reveals no understanding of the philosophy of art and of Ayn Rand. Why did Rothbard recommend it?
7. Students of Objectivism: read September '69 issue of ***The Review of Metaphysics*** essays by Pailthorp, Jordan, & Madden. All very good. Also, don't believe everything people say about Ludwig Wittenstein — not even Miss Rand. Read Stanley Covell's book ***Must We Mean What We Say?*** It will really surprise you if you read carefully. ■

editor's notes

So many readers have commented on the graphics of REASON that I thought it time to mention their origin. Those dozen or so subscribers who began with the very first issue will recognize the great distance REASON has traversed graphically, from a poorly mimeographed sheet to its (moderately) well-designed present format. Much of the philosophical credit for the improvement should go to a graphic designer named Ruth Gesheker, whom I met just after I released the first issue. A student of what is best called Swiss Design (or, perhaps, the MIT style), she showed me that one needn't clutter a page to attract attention; indeed, that the best read messages are those most crytic and considerate of man's visual needs. Not long after this brief series of lessons, she was accepted at one of the best design schools and moved off to Basil, Switzerland, so she can't be blamed for my subsequent errors, but only for whatever aspects of the design that turned out well. Since the first issue, art direction and design (though not art work execution) has been my responsibility. Another person who has aided significantly is Derek Kittridge, advising me on art preparation and even drawing some of the graphics. (Fly the frenzied skies was his execution; more of his work is slated for appearance in coming issues.) Hopefully, each succeeding issue will show improvement, more illustrations and more inventive layouts. Thanks for the compliments.

For the first time, I've managed to bring together in a single issue almost all the components that I want REASON to consist of: strictly philosophical essays, articles of interest mainly to libertarians and Objectivists, and articles of general interest. Our aim is to make the articles of each gender so outstanding that those interested in only one gender will subscribe, even though their interest occupies only 1/3 of the magazine. Other attractive features include cartoons, the Editor's Notes, reader's forum, and certain upcoming surprises. Basically, then, REASON has become close to what I planned when I began two years ago. Except for circulation. I'd like to hear from readers with ideas on building circulation, or who might be interested in affording financial support.

Notice our staff has grown. Cheri Litzenberger, Tibor Machan, and Robert Poole have become contributing editors. Kay Van Dyke assists in production. The publisher's tasks have been taken over by Mark Frazier, a 17-year old senior at Winchester (Mass.), while I have relegated myself to strictly editorial endeavors. Towards completing my staff, I need a contributing editor strong on economics and correspondents to informally contribute clippings and observations for the editor's notes.

Our laissez-faire buttons (see above) are still on sale — 4/$1, 25/$4.50, 100/$13. Minimum order: $1.00; send cash on all orders less than $4.50. Address correspondence to REASON.

The *Freeman* plans to use Robert Poole's article on the oceans and ownership shortly. You should see it there in several months.

A new group has been formed: Wayne State Committee Against Student Terrorism, Box 05152, Detroit, Michigan 48205 (tel: 832-1175).

The New York Times reports that Kathy Boudin, weatherwoman, was disappointed in Russia's young radicals. "Their solution," she said with distaste, "is a free market economy in which money translates people's wishes . . ." Perhaps readers who have recently toured Russia or the Eastern European Socialist countries could drop us a note containing their observations concerning what seems to be a rapidly growing movement against totalitarianism in those states.

A magazine called *Ignition* began publication this April. Dedicated to improving the efficiency of social change, *Ignition* is edited monthly by Robert G. Gifford at 1547 High Street, Denver, Colorado 80218. Send for samples.

"Save the children. Sell the schools" will be the headline of the next button I design. The (preliminary) artwork for the button appears with this months' editorial on education. Any group planning a 'sell the public schools' campaign can purchase the final art for a small fee (which they can then take to a button maker). In fact, most of the artwork that appears in REASON, as well as articles, is probably available at some price. Write to the editor for details.

The letters forum, as can be seen, is becoming a success. In this and future issues I'll try to introduce at least one new topic so as to keep things interesting. Readers who wish to throw out a topic for consideration are welcome to do so. David Myers does so in this issue in his letter on libertarian designation. The question is, when speaking to the general public, does the libertarian call himself a right-winger, a left-winger, or does he claim to be literally outside the political spectrum, rejecting the power trips of both the (so-called) left and right wings? Does he, like Karl Hess, in his Playboy article, seek to be identified as an *anti*-political activist? Does he agree with Robert Lefevre that left and right wings are attached to the same bird of prey — the state? The question is *not* unimportant; just the opposite. It is the first of many such questions, ones that must be answered if rational men are to succeed in converting this society. Please refer to the center fold, and keep those cards and letters coming.

Additonal copies of the center spread are available at no charge. □

This issue, properly, should be listed as No 5/6 (Jan/Feb) because of its extended size.

The next issue will be devoted to ecology and may appear on a limited number of newsstands. Those who wish to purchase bulk orders in advance should contact the editor.

Wanted: an accomplished writer to write features and editorials. Exciting and satisfying work.

letters to the editor

Editor:

Please include the name and address of Tallahassee Students of Objectivism in your next issue.

Tallahassee Students of Objectivism
P. O. Box 1075
Tallahassee, Florida 32301

Thank you, it is greatly appreciated.

Anthony Drescher
Pres., TSO

Editor:

I was very interested by your letter in [Mr. Nathan's] in the December, 1969 issue of Reason magazine, particularly in the differences, as you see them, between the anarcho-capitalist and limited constitutionalist viewpoints. For the record, I think that my position could be generally classified as anarcho-capitalist, in that I don't hold to the idea of a monopoly state as a matter of principle. I don't even describe myself as an Objectivist, or student of Objectivism, etc.; but, for purposes of this argument, I can argue from the Objectivist position on the anarchy vs. archy matter, my disagreements with Objectivism not being crucial in nature regarding the subject.

At the end of your letter, you state, ". . .I. . . advocate limited constitutional government. . ." I dislike to use the word "advocate". It calls to my mind the classical hypothetical situations in which a person is confronted by two buttons, pushing one of which will bring "constitutional government" into being, the other "anarchy". Each of those terms could be applied to a wide range of situations I can imagine, and I would prefer some of the constitutional situations to some of the anarchic ones, and some of the anarchic ones to some of the constitutional ones. I wouldn't want to make a blanket endorsement or condemnation of either.

Let me clarify with some examples. Suppose I was in a lifeboat, having been shipwrecked in the middle of the ocean, and was drifting, in a strong current, towards two islands between which the current flowed. By steering, I could choose to land on one island or the other, but that subsequent travel between them (by me or the inhabitants) was impossible. Suppose further that on each island a number of people, representing a cross-section of the American population, had recently settled. At last report, one island had set up a limited constitutional government similar to the one we have in the U.S. today, while the other had chosen anarchy, various individuals and groups announcing their intent to retaliate for force used against any person electing their protection (to simplify, let's further suppose that all communication was lost with the islands shortly after these systems were set up). Which island would I steer for? I would choose the constitutional government one. For all of the abuses that would probably be visited upon me, my best estimate of the other island would be that, if it hadn't already, it soon would break down into wild-in-the-streets, bloody-chaos-type so-called "anarchy" (actually, mob rule, not true anarchy at all). Compared to this, taxes, the draft, etc., would be preferable.

On the other hand, suppose I had a ship that was outfitted as a radio station, and wanted to go into the "pirate"radio business, and had two choices as locations. These locations were near two islands similar to England in the mid-1960's (the heyday of "pirate" (i.e., unlicensed, offshore) radio). Around one, the situation was that which in fact did obtain around England at that time (i.e., virtual anarchy, with each station undertaking retaliatory action against those whom were considered to have initiated force against them). Around the other, the station owners had gotten together and had formed an association to act as arbiter and enforcer of all disputes, in a manner similar to that used by owners of professional sportes teams to form leagues and set up Commisioners (i.e., essentially a constitutional government). To simplify again, let's assume that, unlike the actual situation off England, there is no reason to expect anyone on shore to interfere with the operation of stations in either case; and that the "constitutional government" has been supplied with more men, guns, ships, etc., than any existing station owner by himself could muster (or than I could muster). Which island would I choose to operate near? In this case, I would choose the anarchic situation, under the general maxim that "any government big enough to protect one's property is big enough to take it away." If they hadn't already, I would expect the "constitutional government" to restrict potential newcomers to the market in any way possible, since they wouldn't take kindly to competition (the actual "pirates" didn't like newcomers, although there wasn't any central organization to do anything about it). Perhaps they would ban "immigration" to their "territory"; perhaps they would "regulate" the frequencies and powers to be used by stations; maybe they would levy "taxes" on stations. In any case, knowing the sort of people that the operators were, I would expect their "government" to effectively prevent me from setting up a viable radio station by whatever means, fair or foul, they found most efficacious, and so I would choose to operate in the "anarchic" situation.

But, of course, all of these situations are hypothetical. Having established that it is a good idea to avoid general, sweeping statements unless one if fairly sure that they are, in fact, always true (or unless the limits of truth are well-defined), let's look at the limited constitutional government vs. anarchy question in the light of the actual situation that exists in the world today. Just as I presented two pairs of alternatives for a "constitutional government" vs. "anarchy" choice, I have found that most of the advocates of the former have one pair of alternatives in mind, and advocates of the latter, another pair.

The constitutionalists I know are usually considering two worlds that have the same general distribution of ideas, attitudes, opinions and values as our own world. The "limited constitution" world differs from ours in that, in place of the constitutions presently found (which leave much to be desired from the Objectivist viewpoint), there is an improved constitution; and in place of our present officials, there are men of honesty and integrity. On the other hand, in the "anarchy" world, the present apparatus of government has been removed without specific replacement. The anarchist might say that, while the former condition, as stated, would be very nice, it is impractical: constitutional "limitations" on governmental power have not proven very effective in the long run, and no way has yet been thought of to insure that all (or even most) officials will be "men of honesty and integrity" when the society at large is composed primarily of irrational men. In other words, the constitutionalists are inconsistent: regarding the first world, they stress the desirability of the state of affairs, and recognize the practical difficulties in a footnote, if at all. On the other hand, when discussing the anarchic world, the impracticalities are stressed, and the ultimate desirability of the condition is footnoted.

At this point, it is interesting to compare this position of the limited constitutionalists with that of traditional, left-wing anarchists. The left-wingers see the same basic alternatives; only ***they*** stress the ***practical*** difficulties involved in limited government, and the ***ideal*** of pure anarchy: just the reverse of the limited constitutionalists. For my part, I view both ideal cases as being not bad places to live at all (in fact, examined closely,

they may be the same situation; more about this later), and the practical difficulties of each formidable. As I understand it, this is the anarcho-capitalist position. Given the present philosophical/political/moral climate, there isn't going to be any long-term, general support for either truly limited government or for pure anarchy (a lot of people may claim to be, and sincerely believe that they ***are,*** for one or the other of these things; but, in the final analysis, most of them turn out to be advocating only that the unlimited government's power be used differently). Therefore, any approach to anything vaguely resembling truly limited government or pure anarchy would have to be imposed from above – as by mounting a clever public relations campaign, perhaps, or maybe by a coup by an Objectivist elite. However, when this sort of change-from-the-top has happened in the past, the only long-run change that usually results is a change in the personnel and the rhetoric; otherwise, things return to business as usual after a short time.

This brings us to the alternatives that the anarcho-capitalist usually has in mind when he considers the merits of anarchy vs. those of limited constitutional government. He supposes that, in order for there to be any serious chance of either coming into existence, rationality will have to be the prevailing viewpoint in society. It won't necessarily have to be universal: a certain number of criminals and other irrational people can be dealt with. The spectrum of views toward rationality would merely have to be similar to that towards, say, socialism in a country like Sweden when that system was adopted there. In such a case, of course, your argument against anarchy from the general irrationality of the human race would be inapplicable, and the danger of concentrating power in the hands of a government is the main consideration. Let me put it in a "statistical" framework: in a generally irrational population, distributing the power "at random" virtually guarantees that most of it will be in irrational hands; the "probability" of a predominance of power in rational hands is minute even if rational people comprise a large minority of the population (say, one third). On the other hand, if we have a single government, with a single chief, there is at least the hope, desperate though it may be, that, somehow, a rational person might come to power. Such hopes encounter the difficulties I discussed above, but the illusion remains among some people. In a world that is largely rational (say, one third *ir*rational), the reverse of the above applies.

All of this "statistical" analogy assumes a single government in a given jurisdiction. This is a common position among those who advocate limited constitutional government, and gives rise to the serious problems of defining jurisdictional boundaries, and defining the proper government within each. In that respect, your position is most interesting. You dispose of the problem by supposing multiple governments with loose, overlapping jurisdictions. However, in so doing, it seems that the distinction between your "governments", and the anarcho-capitalists' "private defense agencies" almost vanishes. The key lies in the definitions of the two terms. Two sets come to mind. The most straightforward set defines a government as an entity providing retaliatory force on behalf of another entity. The usual provision concerning a legal monopoly on retaliatory force found in most limited government advocates' definitions must, of course, be omitted if you allow loose, overlapping jurisdictions. Given this definition of government, I think most anarcho-capitalists would define "defense agency" in the same way. This, by the way, eliminates the difficulty you brought up of assuming that all "defense agencies. . .(are). . . valid, pro-rights institutions." No such assumption is made. Naturally any individual, acting alone or as an agent of a defense agency (or, for that matter, as an agent of a government, if the distinction retains any validity) guilty of initiating force is a criminal, and has no more rights than any other criminal guilty of the same offense.

On the other hand, if you want to talk about the inherent rights of "defense agencies", (as the above quote seems to imply), then we would have to define "defense agencies" to mean entities providing retaliatory force on behalf of another entity, and never engaging in initiatory force. In this case, defense agencies are pro-rights by definition, any entity initiating force ceasing to be a defense agency, even though it might continue to so style itself. However, if you adopt this definition, it would be capricious not to apply the same standard to "government", defining erstwhile governments who initiate force as not being governments at all. On the other hand, most people differentiate between the concept "government" and the concept "rightful government", a difference the above definition eliminates. Combined with your previous deviation from accepted usage in the matter of monopoly in government, this makes it doubly questionable whether it makes much sense to refer to the system you advocate as "government". Perhaps you are an anarchist without realizing it (by the way, I notice that you still pay lip service to the idea of monopoly government in spite of allowing loose, overlapping jurisdictions; this is like saying "Entity X shall have a monopoly on engaging in activity Y", and then defining Entity X as "all entities engaging in activity Y"; this sort of "monopoly by definition" seems somewhat circular to me, and hence not of much use).

One other thing in your letter bothered me. You make repeated reference to the relative "status" and "institutional recognition" of competing defense agencies. What do these terms mean? Let me illustrate my quandry by using another hypothetical case. Suppose some people are shipwrecked on an island, and the prevailing view is that an anarcho-capitalist system should be followed. Some members of the Mafia who were aboard set up the "Black Hand Defense Agency". Besides their families and friends, a number of people subscribe to their services on the theory that nobody will mess with them in the face of the threat of retaliation from the BHDA. Some others are less enthusiastic, but, in the interest of "avoiding trouble", subscribe anyway. The other survivors get worried about the BHDA and its reputation, and decide to protect themselves by subscribing to the "Untouchable Defense Agency" organized by some FBI agents who were on the ship.

After a while, one of the BHDA boys roughs up a UDA subscriber in an attempt to get him to buy their "protection". The victim reports the incident to the UDA, and the UDA boys decide to get their guns and go after the BHDA boys. In the meantime, the BHDA boys hear about this development, and get their guns, and go out to meet the UDA boys. In the middle of the island, they meet and start shooting it out. There are many casualties, among bystanders as well as both sides. Finally, night falls and both sides withdraw to regroup for the next day. That night, the UDA subscribers (the vast bulk of the island's population) hold a meeting and decide that anarchy isn't working; this "gang warfare" has got to stop; giving "equal status" to both sides is a travesty; it's high time the forces of "law 'n order" were given the "institutional recognition" they deserve. In the end, a constitution is adopted, and a "limited constitutional government" is installed. It's first act is to swear in the former UDA boys as the Official Island Police. Come morning, the Official Island Police set out to arrest the Criminal Gang. As before, the Criminal Gang resist arrest,

and there are heavy casualties on both sides, among bystanders, etc., etc., etc.

The moral of the tale is, how much "wronger" were the Mafiosi for having lost their "status" as a "legitimate" defense agency?" How much "righter" were the FBI men for having gained superior "status"? How many more or less guns or bullets did either side have because the FBI men were given "institutional recognition"? In short, what difference did it make, moral *or* practical, that the previous night's activities had taken place? Once again, I think the problem lies in different people considering different pairs of alternatives. When most people think of a "duly constituted government", they imagine a behemoth like the combined Federal, state, and local governments in the U.S.; and when they think of a "criminal gang", they think of a small group of furtive men. On the other hand, when they think of "competing defense agencies", there is a tendency to think of two groups more or less equal in strength. Actually, of course, the labels applied don't have any necessary connection to relative strengths of entities under consideration. If the people in the right are stronger than those in the wrong by a comfortable margin, then they will probably have little trouble handling the situation whether they are called a "defense agency" or a "government"! If the forces are about equal, then the fight will probably be long and hard in either case. Let's hope for the former, but let's not pretend that labels make any difference (of course, if they help rally support for the right side, by all means choose the most attractive; but don't get swept up by your own propaganda).

In short, I think that the disagreements between supporters of limited constitutional government and those of anarchy are, to a considerable degree, superficial, and most can be attributed to imprecise semantics and invalid comparisons.

Erwin S. "Filthy Pierre" Strauss

An excellent letter, Mr. Strauss. —Ed.

Editor:

Since you have now seen fit to give Jarrett Wollstein space in your magazine, in full knowledge, (I assume) of his vicious attacks on Miss Rand in the past and of his misrepresentations of her philosophy, I wish my name removed from your mailing list. Nor do I wish my name listed in your magazine at any time in the future under the heading of "Pro-Objectivist groups".

Your magazine will as of this date be removed from our mailing list.

Edwin A. Locke
Silver Spring, Md.

Should we view your request for your group to be excluded from future lists of pro-Objectivist groups as an admission that it is not pro-Objectivist? (Otherwise, it makes no sense.) —Ed.

Editor:

Recently, you have chosen to publish two negative criticisms of Ayn Rand *without* publishing *at the same time* any intellectual support or justification for these judgements.

I quote: "By the way I *have* explicitly considered her (Ayn Rand's) arguments asserted in the "Nature of Government" in some detail in my "Society without Coercion" and shown them to be fallacious." (November, 1969 p. 16) "As you may know, both of the major sources of Objectivist literature and other materials have disgracefully defaulted in this area . . ." (December, 1969 p. 19) (Parenthesis mine)

Granted, these judgements were not made by you; but I do not feel that your editorial disclaimer absolves you of the guilt of the decision to publish such unsubstantiated material. I feel that such an unvalidated act not only hurts the cause of Objectivism, it also shows a profound lack of intellectual responsibility.

Therefore, I would like to cancel my subscription and ask that you please refund to me the unused portion. It seems to me, my friend, that since you obtained your philosophy from Miss Rand, before you allow attacks on her, you god - damn better well have good and sufficient reason.

Ophelia Betty Hendrie
Middletown, N.Y.

One question of you, Miss Dendrie: had the criticisms here printed "without intellectual support or justification" been "positive" would they have upset you half as much? —Ed.

Editor:

"Song of Joy" by Miquel Rios (a Canadian). I just heard it on KMET - it's a wild/mind blowing version of the last movement of Beethoven's 9th. It alternates between full orchestra to chorus & Rios' singing the Ode to Joy in English - Beethoven's rhythms have been accentuated but not altered - Ludwig is enough of a swinger not to need alteration. It's very much on the interface between rock & classical - I like it!

Lynn Kinsky
Santa Barbara, Calif.

Editor:

I admire the excellent issues you continually turn out. Keep up the good work.

I am especially interested in the letters to the editor column as this sort of discussion is the type that generates new ideas.

I have been following the "Argument About Anarchy vs. Archy" with great interest and hope to contribute something that may help clarify thought in this area.

In the premier issue of ***Pine Tree,*** Robert LeFevre lays to rest (for my money, that is) the use of the word "anarchy." He traces the origin of the word to mean a condition of no government; however, it is implicit that it also means a state of socialism (ostensibly voluntary) would exist. As far as I am concerned, a libertarian use of the word "anarchy" to describe the libertarian philosophy would be entirely self-defeating.

Mr. LeFevre prefers the word "autarchy" to describe or represent the libertarian philosophy. But this word has similar connotations to oligarchy or monarchy. Hence, I think it too will be self-defeating.

I recently proposed to Mr. LeFevre a newly-coined word to represent the libertarian philosophy: "autocybernism." It derives directly from the Greek "Auto" meaning self, and "kybernan" meaning to steer or to govern. Although this word doesn't have the "pizazz" or the familiarity of other words, its etymology is correct and it may gain currency if used in intellectual circles. (Of course, it resembles its brother word: "cybernetics" which is slowly gaining currency.)

I think a great deal of thought should go into the discussion of and choice of a proper title for a libertarian movement. We must avoid, above all, choosing words that can be commandeered by the collectivists and scandalized by the socialists. I propose "AUTOCYBERNISM." "AUTOCYBERNISM FOREVER.!"

David Michael Myers
La Plata, Md.

What do readers think? —Ed.

Editor:

In answer to your question in the recently published ***REASON*** as to what percentage of the cost of a prosecution the victim should pay I would conclude none.

Let us assume that I am attacked by some nasty person who attempts to inflict injury on my person and who, in the course of his assault, relieves me of my property, say, a watch.

The police company (either a private corporation with which I have a defense contract or the monopoly government's defense agency) pursue and capture, after an investigation which lasts one week and which involves two detectives, seventeen dollars worth of petrol, the use of telephone communications, a computor which identifies this vile person from my description, and other instrumentalities and individuals and which costs say, three thousand, five hundred seventy-four dollars ninety-nine cents.

The man is identified and arrested. I think it only proper that I should be able to reclaim my property and should be able to do this via civil proceedings: on this account I am backed up by Rothbard (second chapter of Vol 1, ***Man, Economy, and State***) and by Wordsworth Donishthorpe (whose excellent book, ***The Law of a Free State*** is mentioned in Rothbard's appendix) a nineteenth century libertarian author. After this the Police should institute criminal charges against my assailant. This may cost another thousand dollars.

The thief should be required to pay all costs acruing from his crime - he violated my rights and not the opposite. Since I and the police could have been doing something else with our time and money he should also be required to pay the prevailing interest rate (compounded at the bank rate average) as well as a fine and perhaps civil damages for injuring my person (which is, after all, my property.)

It could be argued that the thief should not have to pay all this because I am the one who instituted the actions against him - that is, I have paid to be protected and therefore should have to carry part of the costs involved.

This overlooks the question of ***who*** violated ***whose*** rights. Did I attack that man and force him to steal my property - did I go up to him and say: "Look vile person - either you lay violent hands on my person and relieve me feloniously of my possessions or I will do physical damage to you!"?

Even though I have a contract with the Police (private company or public monopoly, in this issue they would and should act the same) to protect my rights he, the thief, has no right to attack me. He is the initiator of the action. Yes I subscribe to a protection agency, but ***because*** of persons such as ***him.*** My contract, say with the GM Protective Field Agency Inc., is to involve them in the protection of my rights against possible transgressors; it's an insurance policy similar in principle to fire or life insurance. (In a free society by the way, one would have similar contracts with the local fire department, although their contract would be far easier to enforce - after all, a house on fire need not be chased, and I might have been killed by the thief, which would mean a much longer and costlier investigation, one in which my murderer would be unable to work off his fines - he would, properly, be killed himself.) As to capital punishment there is only one question which need be asked - has one conclusive proof of the suspect's guilt? The parameters of acceptible proof would have to be stringent and for that reason execution might be rare. One could imagine, however, a faultless lie detector and mind reading machine, say, with a visual hook-up showing how the man murdered. In such a case I could think of no justifiable objection to executing murderers.

John H. Costello
Peabody, Mass.

Does anyone agree with Mr. Costello?

—Ed.

Editor:

My comments are in response to the letter of Mr. J. B. Wollstein in your November 1969 issue. I will begin by saying that I have read the article "The Nature of Government" by Ayn Rand and am in complete agreement with it.

Mr. Wollstein's basic contention is that government (of the form advocated by Rand) "initiates force by outlawing and forcibly interfering with competition with its activities." The upshot is that Rand is advocating immorality and that new thinking must save Capitalism from Objectivism. The new thinking has developed the idea of "competing governments" or "competing defense agencies."

Well, "competition" is an economic concept and ill suits this kind of discussion, but an analogy might be made. For instance, just as business cannot exist without private property, so government can't exist without sovereighty. That is, just as a business could not exist without someplace to produce, so a government could not enforce without someplace to do it. Let's examine an illustration.

What would a person do when walking down a street and observing one man forcibly restraining another? Would he follow the policy of non-involvement and and ignore it? That would entail a great deal of latitude for allowing criminals to roam around freely. Or would he interfere? That could likely get him arrested for interfering with an arrest, which might even be more dangerous than the first alternative. In other words, if there were competing defense agencies, no one could tell the cops from the robbers.

Perhaps all the cops could wear uniforms to identify themselves. But there could be no law that they had to and one could never be sure who was which. (Besides, what would stop the criminals from dressing in a similar manner: cops would be arresting each other all the time to try to avoid it or else they would assume anyone unknown wearing such a uniform worked for a different agency.) And even if they all agreed to look alike, how would one know if a particular cop were enforcing a good law or a bad one? Would all the agencies subscribe to the same code of laws? According to Wollstein, there is no one to say that they do. So how does a person know, not only who are cops and who are robbers, but who are good cops and who are robbers?

The society in which this situation prevailed would be a savage society not a civilization. Thus we see that "competing defense agencies" is no more than a euphemism for gang or tribal warfare.

Wollstein assumes that since the proper function of a "monopoly government" is protection, that government would necessarily be engaged in the ***protection racket,*** i.e., forcing you to accept its "protection." Such, however, would not be the case; the government would merely protect others from any violation of their rights which might stem from your acts of self protection. That is, the government would not allow arbitrary acts of force (initiatory or retaliatory). If you did not want to be protected then the government would leave you off its list. But as soon as someone violated your rights and you went out to get him (or hired someone to), the government would not allow it unless you could prove that you were right (and it would also see to it that the punishment or retribution fitted the crime and was not unjust).

This is what Ayn Rand calls ***"the separation of force and whim".***

Anything that a man does is not necessarily rational and just simply because he does it. That is why the precondition of a free society is "the barring of physical force from social relationships." (Rand) Since force cannot be renounced categorically, i.e., since it must be available for retaliatory purposes, the only safe way to make it available is to have the machinery for using it out in the open where everyone can see it and know, ***in advance,*** when it will act and

what it will do. This is the concept of law; it means that the law must be supreme, i.e., objective, not arbitrary. (Such a system would, incidentally, incorporate elections. The purpose would be to assure that everyone knows what is going on and can have a say about it.)

The concept of "competition" is totally inapplicable in this context. If the law isn't objectively codified and rigidly, unalterably enforceable, then a free society cannot exist.

Mr. Wollstein states that regardless of any other consideration "the fact remains that IF GOVERNMENT CAN MORALLY RETALIATE AND JUDGE, SO CAN THE INDIVIDUAL AND PRIVATE AGENCIES." This is wrong. The correct statement is: since the individual can judge and retaliate, so can the government, i.e., THE GOVERNMENT DERIVES ITS JUST POWERS FROM THE CONSENT OF THE GOVERNED. The relationship involved is one of servant and master, not one of a contest.

"If I have the right to engage in these actions," says Mr. Wollstein, "then government ***can not*** morally interfere with me when I am in fact ***retaliating.***" This is true, but the emphasis should be on the "in fact." The only way that a complex society can exist is for its members to know that whenever physical force is used without meeting certain requirements, a crime is being committed. Those certain requirements are: that the person it is used against has committed a crime, that this has been proved by means of standard, rational procedures and that the enforcement is carried out by a known, thoroughly defined mechanism and method. If force is used in a civilized society, its members must know why, in fact, it is being used. The only possible means by which this can occur is the full definition, in advance, of why and how retaliation can and will operate. This will differentiate initiation from retaliation. But there must be no question in peoples minds, or they will not know fully what they can expect from other men and no complex civilization can exist.

Therefore, the law must be objective. There can be no "competition" about it: the law must be sovereign.

(Included in the objective definition of retaliation would be conditions covering situations in which immediate action is required to defend life or property. These conditions would protect the defender after the fact, i.e., he would have to prove his justification. Mr. Wollstein's statement is true in this context: it would be immoral for the government not to allow people to prove that they were justified.)

Just as men must create better and better technological tools to advance the productiveness and happiness of their lives, so they must produce better institutional tools. In a savage society a rational man must try to look after himself. As there are more and more rational men, they can band together for mutual protection against those who live by force. Soon they can delegate the responsibility to a part of their number. As civilization advances, the job of protection can be handled by fewer and fewer. At the same time that job becomes more complex and long-range. As a society becomes more complex, i.e., larger and more technologically advanced, men's rights must be more and more clearly defined (defined over a wider range of possible activities and consequences) so that people will know what they are not allowed to do and what the consequences will be for choosing to act criminally to any degree and for any reason. Only a sovereign government can perform this function. If there were more than one government, there would be ***no*** government and civilization would collapse. The "special right" that Wollstein condemns the "monopoly government/super agency" for possessing is nothing more or less than the objective, non-negotiable fact of "The Rights of Man."

Further Mr. Wollstein says, "If I do not have the right to arrest, judge and incarcerate, then government can have no such right either." This is not true. "Arrest, judge and incarcerate" are stolen concepts in this statement. Only a government can arrest, judge and incarcerate. A person can forcibly restrain another, tell him he's a bastard and lock him up, and this may be a case of moral judgment but it is not a case of legal judgment. A government does not derive the powers to arrest, judge and incarcerate from the right of the individual to arrest, judge and incarcerate. A government derives those powers from the right to self-defense of those governed. Those powers are the tools the government uses to do its job; tools created by men because they were needed to do the job, i.e., the job couldn't be done without them. A government is not the same as a person any more than a telephone is.

To conclude I will take time to answer the questions Mr. Wollstein asks when he goes offensive. My concept of government is in no way modified from Rand's so-called "sketchy remarks." Nor, indeed, have I said anything she hasn't said already.

Question – "What dominion will your 'limited government' have over me?"

Answer – it will have the sovereign authority to be the mechanism of recoiling your initiation of force upon yourself to whatever degree possible. (You can read Isabel Paterson's THE GOD OF THE MACHINE further on this matter.)

Question – "Will it be able to commit me to its wars or force me to pledge allegiance to it?"

Answer – No.

Question – "Will I be thrown off of my property if I do not vote or salute your flag or patronize your courts in civil cases?"

Answer – No.

Question – "Will your government's 'agents' trespass on my property in order to 'protect my rights' even if I tell them that my property is private and inviolate, that they have no right to come onto it for any purpose so long as I violate no one's rights?"

Answer – No.

Question – "What if I and all of the persons in my county get together and decide that we do not trust your government, that we would prefer to provide for our own defense? Will you then still come onto our lands without our permission and jail us for protecting ourselves?"

Answer – It depends on what you do to protect yourselves. If you do not trust a government based on individual rights, what is it that you want to defend?

Question – "If so, BY WHAT RIGHT?"

Answer – The Rights of Man.

Question – "What I am asking you now, if you do not know it, is do men have the right to secede?"

Answer – Men do not have the right to secede from a proper government and establish another. The only basis for "competition" would be the violation of men's rights.

Question – "If they do, then your 'limited government' is lost."

Answer – If people are seceding all over the place, then it is true that a limited government will be lost, i.e., the society will be disintegrating. It will still be true, however, that a limited government would be the proper type.

Question – "But if not, why not? However, I will not stop there. Please tell me further how nations are properly formed?"

Answer – By the consent of the governed. It takes much thought for men to decide what kind of government they should consent to; it takes much work to create and maintain it; it will take a

long time. But there is no other way.

Question – "Is it by decree, by one group asserting itself to be the rulers?"

Answer – No. On second thought, I could qualify this answer to: maybe. It could be that in a semi-savage society a group could get together, tell others that it is a new government and see how they liked the idea. This might be practical. Nowadays it would be impractical, though; nobody would listen to you.

Question – "And how should national boundaries be created?"

Answer – In a world of Capitalism, it wouldn't make any difference. In a world with only some capitalist countries, the boundaries would probably be determined by what the government(s) could efficiently protect.

Question – "How do you decide who is 'the government'?"

Answer – By the consent of the governed. Elections are a very reasonable tool for conducting such affairs.

Question – "What happens if when you are attempting to form your government you fail to get unanimous support for it? What if 70% or 50% or 1% or one person in the geographical area of your proposed 'nation' decide that they would rather not be a party to your government, that they consider their lands under no dominion and no authority save their own; that they do not recognize the authority of your monopoly agency?"

Answer – That's perfectly OK as long as they don't interfere. The government is not an institution to control all the people in a given geographical area; it is only to control those who initiate force. If enough people can get together in a particular area and set up the mechanism of a proper government (financing it, manning it, etc.), then the only way that other people in the area could make a difference would be if there were enough of them inclined to destroy the rest. Those who didn't want to live by force and didn't think the government worth the effort of support would be unaffected (although they might derive some gratis benefits).

Question – "Or what if they prefer to set up their own 'government' and have elections every 2 years rather than every 4 years?

Answer – I can't conceive that frequency of elections would be that great an issue.

Question – "By what authority will you stop them?"

Answer – The Rights of Man.

Question – "And even if you do manage to somehow establish your 'limited government' with unanimous consent what authority does it have on succeeding generations of men; how does it get authority over me and my property if I am born into it?"

Answer – The Rights of Man.

Question – "In what manner does the will of my ancestors become *morally* binding on me?"

Answer – In the manner of justice. If your ancestors were just and moral men who devised a just and moral government, then you are morally obligated to recognize its just powers. You can be immoral if you want, but just because you want it doesn't make it any less immoral. That is, if you are born into a Capitalist society (or any society for that matter) you are immoral if you don't become a Capitalist.

Question – "I declare that I will not sanction tyranny, slavery and coercion in any form and in any degree. I will not countenance the control of the lives and property of free men by your government."

Answer – Your first sentence is a fine statement. However, the second is rather paradoxical. If the government controles the lives and property of the men, then they are not free men (nor is the government the type advocated by Rand). If they are free men, then their government is moral. If you will not sanction a moral government, what will you sanction? Guess I didn't have to ask that, did I?

Now, small comments on a couple more of Mr. Wollstein's defensive statements and that's all.

He says, "If I possess something *by right,* I have *no* obligation to delegate it to anyone." Perfectly true. It can be said that no man is obligated to live in a rational society or in an advanced, complex civilization; he can live in a different area or even in the same area and simply not deal with any of its members. However, if one does wish to live in a complex civilization, he can only do it in a manner consonant with the nature of man. That means that the civilization must be Capitalist, which means that the man in it must renounce the use of physical force (except in self-defense emergencies) and embody its retaliatory use in a government.

"One can initiate force *only* by violating someone's or some group's rights." This oddly worded statement contains at least one large error: the concept of "group rights." There are only individual rights. Thus, talking of "rights of government" or even "special rights of government" is very confusing and allows erroneous conclusions to develop. For instance, "Government can have no rights not possessed by its citizens and *voluntarily* delegated by them to it." This statement is not relevant to a discussion of the Objectivist concept of government. The government of a Capitalistic society would not have any rights, nor would it claim to. Its citizens would not delegate their rights to it (rights are inalienable), they would only agree for it to be the sole repository for the use of physical force to protect their rights. The government would not take over their rights nor possess any special ones of its own. It would bear no resemblance to today's government. To argue against an Objectivist government on the basis of the immorality of today's government is ludicrous. If you don't discuss government in terms of its "rights," if you know that it is merely the tool of individuals protecting their rights, the discussion of competing defense agencies would never come up.

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In the name of a rather noble set of ethics - objectivism - you've committed a number of gross misapplications. It suits me at the moment, though, to leave the exposure of all but one of these to my readers. My purposes are satisfied by pointing out only one example of context-dropping. Your fourth paragraph begins: "What would a person do when walking down a street and observing one man forcibly restraining the other?" Doesn't your question assume public ownership of the roads? Otherwise, it would seem to hold no argumentative strength. If the roads were privately owned then, what one should or could do to aid an underdog would be determined by implicit and explicit contractual agreement and good sense.

–Ed. ■

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